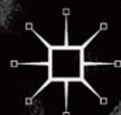


GYPSIES IN GERMANY AND ITALY, 1861–1914

LIVES OUTSIDE THE LAW

JENNIFER ILLUZZI



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Abbreviations

GStAPK	Geheimes Staatsarchiv Preußischen Kulturbesitz
StAM	Staatsarchiv München
BHStA	Bayerische Hauptstaatsarchiv
ASdCT	Archivio Storico della Città di Torino
AdSTP	Archivio di Stato Torino, Via Piave
AcSR	Archivio Centrale dello Stato Roma
AdSA	Archivio di Stato Alessandria
ASCAL	Archivio Storico della Città di Alessandria
PS	Pubblica Sicurezza

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The Modern Bureaucratic State of Exception

When I first arrived in northern Italy to do archival research on “Gypsies” around the turn of the 20th century, a typical response I received from friendly archivists in Piedmont was that “we didn’t have Gypsies then,” or “there are no files on Gypsies in that period here.”¹ I knew, however, from my research in Rome, that there were, indeed, populations labeled as Gypsies in late 19th- and early 20th-century Italy, and that then, as well as now, they were widely considered to be a “problem” in need of solving. Yet the tools of the historian’s trade, the archival sources, were few and far between, and difficult to find. Eventually, thanks to the help of a national service volunteer, the city of Alessandria allowed me to access a database of all court cases from the 18th century to the present, searchable by both name and profession, which became one of the few, and admittedly limited, ways I could find a window into the way that state authorities perceived and handled Gypsies in modern Italy.

The very disappearance of “Gypsies” from Italian files hinted at the nature of Italian authorities’ approach to Gypsies themselves: if they existed, and they were present, they were not Italian, they did not belong, and they must be expelled over the nearest border.² Italian authorities accomplished this through confiscation of personal documents, administrative circulars to the various Italian prefects, the police, and the judiciary, and they utilized both national and local authorities to accomplish the “disappearance” of Gypsies. In other words, they used the tools of the information state to make those they categorized as “Gypsies” invisible.³

I decided, however, that in order to understand the Italian state relationship with Gypsies, a comparative case would be instructive. Germany was becoming a unified nation-state at the same time as

Italy: making critical decisions about how to shape state structures, construct the constitution, legal, and judicial systems, whether to create a centralized state or a more federalized structure. Both Germany and Italy often have similar historiographies: they suffer, in the eyes of historians, from “failed liberalism,” but those trajectories have been more recently questioned. Comparing Italian and German state authorities’ approaches to Gypsies at the turn of the century would illuminate more than a single case study. At first glance, the German case appeared to be rather different. Both in Berlin and Bavaria, I found organized files under various headings denoting *Zigeuner*, from the same time period, collating press clippings, various executive circulars, communications between the Bavarian *Zigeunerzentrale* and various ministries, inter-ministry communications, and communications from abroad, all clearly alluding to a vigorous debate about a problem in need of control and monitoring, but also a sign that, unlike in Italy, German authorities directly acknowledged a category of persons residing permanently within the German national boundaries. Thus, the German state used the expanding capacities of the information state to render Gypsies highly visible. A clear difference of approach between the two nationalizing states was obvious. Over time, however, I came to understand that by the turn of the 20th century, Germany and Italy differently utilized the tools of the information state to place Gypsies in a “state of exception” outside of, but tied to, the national community. Understanding the functioning of the “state of exception” during the era of nation-state formation in Germany and Italy gives us a new way to think about the historical mechanisms of Gypsy exclusion in states that adhered to a universalist, liberal concept of law.

In Angus Fraser’s comprehensive work on the history of Gypsies as a “people of Europe,” he points out that there were two waves of initial Gypsy migration into Europe. The first wave occurred in the 15th century, with the arrival of “pilgrims” from the east. The second wave of migration occurred in the middle of the 19th century, sparking what Fraser calls “the restoration of an apparatus of aggression which had fallen into disuse.”⁴ Fraser, like many recent historians, stresses the continuities between the early modern and modern state, while simultaneously acknowledging the significantly more powerful bureaucratic characteristics of modern states.⁵ While the goals of modern Gypsy policy bore striking similarities to those of the early modern state (assimilate or leave), the methods and efficacy of their implementation differed. The apparatus of state were distinctly more powerful, and unlike in the 15th century, state authorities could follow through,

at least to some degree, on their promises of control and compulsion of populations labeled as Gypsies.

Modernity, Legibility, and the Growth of the Bureaucratic State

The growth of the bureaucratic state shaped anti-Gypsy policies in critical ways. Christopher Dandeker approaches the analysis of the expanding modern bureaucratic state by dividing the literature into two main camps. He argues that the analysis of surveillance tends to take two tracks: the first is what he calls a “Marxist” analysis that focuses on the class basis of power, capitalism, and industrial society. This analysis tends to be optimistic, systems based, and sees the challenge to capitalism provided by socialism as a means of correcting the worst excesses of modern bureaucratic surveillance. In the study of Gypsy policy, a focus on the socioeconomic marginalization of those labeled as Gypsies, their role in the niche economies of Italy and Germany, and the study of the development of modern welfare systems helps to give the historian perspective on changing state approaches in the modern era. The second track, a more pessimistic “Machiavellian” strand of analysis, sees social life as an “arena of eternal struggle.” In this model, the state is often seen as a tool of repression, seeking to control its population for the perpetuation of its own power and the maintenance of rule. When looking at the development of the “state of exception” for Gypsies, the Machiavellian perspective is quite helpful in understanding why Gypsies prove to be such a frustrating “problem” for modern bureaucratic administration, and why bureaucratic administrations, directly responsible to the executive powers (rather than the judiciary or the legislative) react by utilizing the “state of exception.” Ultimately, Dandeker critiques both approaches as inadequate and seeks to find a synthesis between the two poles, while leaning more heavily toward the Machiavellian perspective.⁶ When dealing with a stigmatized group like Gypsies, the Machiavellian approach may indeed be more appropriate, since the goal of Gypsy policy in Germany and Italy was to “stigmatize, control, exclude, restrict [and] hunt down” those who are labeled as Gypsies, rather than to collect “innocent data on individuals that is necessary for administration.”⁷ Like Dandeker, in the pages that follow, I lean more closely on a Machiavellian approach to the development of anti-Gypsy policy in modern Germany and Italy, but I also draw somewhat on the insights provided by a Marxist approach by focusing on the implications of the

growth of capitalism as a distinguishing feature of late 19th century Germany and Italy.

What changed most in European states at the turn of the 20th century was the expansion of early modern bureaucratic control and power. Dandeker offers a useful definition, drawing on Weber, of the “modern bureaucratic state:”

It possesses a legal and administrative order comprising a body of formalized legal norms and a rational bureaucracy. The bureaucracy is charged with implementing such legal norms over the state’s territory and population. This activity involves permanent and continuous exercise of surveillance. In addition, the state is a compulsory, rather than a voluntary, association. It claims binding authority over all its members, most of whom will have obtained membership by birth. The state also claims authority over all action taking place within its territory... Whatever may be the ends of the modern state, they are expressed in formally defined norms. The methods for changing the ends of the state are defined by legal procedures rather than by traditional norms or charismatic revelation. Changes in policy goals do not rest simply on the whim or discretion of the head of state.⁸

Both Italy and Germany in the late 19th and early 20th centuries, as part of the transition to unified, modern, nation-states, were becoming such bureaucratic states. The creation of a rationalist bureaucracy under the direct supervision of the executive branch is a key feature of both states, and a key to understanding the treatment of Gypsies during this era. The bureaucratic norms and the expectation of equal treatment under the law in liberalizing late 19th century societies provoked a tension with Gypsy populations. How can one treat an unwanted group, like Gypsies, equally or rationally before the law, when the goal is to rid the state of them? And how can it claim authority over them when they are not wanted or perceived of as members? The “state of exception” resolves this paradox of Gypsy policy for officials in both Germany and Italy, by placing Gypsies “at the whim and discretion” of the head of state, and other executive level officials.

In *Seeing Like a State*, James C. Scott points out how the coming of the modern nation-state fundamentally altered the relationship between ruler and ruled. Scott, in Dandeker’s two-pronged analysis, holds a decidedly Machiavellian perspective on state power. For example, he points out the novelty of last names – something that we take for granted but that have infinitely increased the power of governments

to control their populations. In Italy, surnames did not become standardized until the 19th century – a key piece of information to keep in mind when one of the main complaints of officials dealing with Gypsies was their lack of standardized surnames.⁹ In Germany, the law requiring civil registration and the standardization of names was passed in 1875.¹⁰ While today, fluid name changing seems dishonest, in the 19th century, people were just becoming familiar with the idea that one's name was an immutable attribute. The public identities of everyone, not just Gypsies, were in question. For Scott, two terms shape his analysis of the interaction of the state with its inhabitants in the modern era: legibility and high modernism. Both concepts draw on Foucault's ideas about surveillance, the ability of states to individualize and keep track of each of their residents, and the power that the individualized knowledge could bring to state authorities. A key aspect of state power is the ability to know citizens in a statistical way, and the process of making the population "legible" is exactly what took place in Germany and Italy in the late 19th and early 20th centuries. State authorities' attempts to tie Gypsy identity down to one particular group, one "nationality," one name, or one address were consistently thwarted by at least some of those labeled Gypsies.

To borrow Scott's term, individuals and families labeled as Gypsies used the "weapons of the weak" to resist state authorities' legibility projects. Nonetheless, the authorities persisted and attempted to create a category including specific attributes that supposedly made up the Gypsy, so they could develop "solutions" to their supposed problem. During the late 19th and early 20th centuries, the category was still open and undecided and the government authorities understood that there was "a certain fictional and arbitrary quality to their categories" and that the categories hid a "wealth of problematic variation." The categories, once in place, then were used as if they were "in fact homogenous and uniform."¹¹ In both Italy and Germany, the contours of the category Gypsy were very fuzzy before World War I and thus, its application was highly inconsistent. Over time, however, in both places, once people were labeled as Gypsies, their chances for integration into the national community diminished, regardless of where they were born and where they resided. Once the label of Gypsy was applied, the police assumed an individual's criminality, and local, regional, and national authorities devised increasingly radical solutions to push them out of the community.

Scott's concept of high modernism has been critiqued by scholars of Gypsy history like Leo Lucassen, who disagrees with Scott's contention

that “a lack of democracy and civil society is a necessary condition for the development of illiberal ‘high modernism.’”¹² Lucassen argues that democratizing nation-states with a rapidly developing civil society are just as likely to develop “high modernist” social engineering projects. High modernism, according to Scott, is “best conceived as a strong (one might even say muscle-bound) version of the beliefs in scientific and technical progress that were associated with industrialization in Western Europe and North America from roughly 1830 until World War I.”¹³ Scott himself refines his own thinking on both high modernism and legibility in his recent work by expanding both his notions of state legibility projects beyond the West, and agreeing with Lucassen’s critique that “high modernism” is not only associated with illiberal authoritarianism but with all modern bureaucratic state types. His study of Zomia, a hill region of southeast Asia that resisted state legibility projects for centuries, has important repercussions for the study of European Gypsies. As part of the process of the development of the modern bureaucratic state described by Dandeker above, states by definition drew a line between those who belonged “inside” the state and the “barbarians” who remained outside. For Scott, “the category of the ‘barbarian’ can have no permanent referent apart from being ‘beyond the law.’ It simply refers to those who at any given time are made to stand for an idea Barbarians are, then, a state effect; they are inconceivable except as a ‘position’ vis-à-vis the state.”¹⁴ He argues that by the middle of the 20th century, remaining outside of the bureaucratic state’s legibility schemes had become virtually impossible for anyone. Scott brings out another aspect of the legibility story in *The Art of Not Being Governed*: the idea that those labeled as barbarians were so by deliberate choice. Gypsies, like other ethnic groups, built an identity around resistance to legibility by the state, choosing deliberately to live outside of the bureaucratic regimen imposed by the state, and thus thwarting state legibility projects. Some certainly assimilated into the majority culture, yet some chose to remain outside of the state. This agency and resistance to state authority described by Scott recurs throughout this book. There is an ongoing struggle between Italian and German Gypsy populations – to balance their own way of life against encroaching state bureaucratization.

The long-term effect of both state attempts to render Gypsy populations “legible” and Gypsy resistance to those projects are particularly obvious during what Angus Fraser might term a “third wave” of Gypsy in-migration. The end of the Cold War, the collapse of the Communist regimes in eastern Europe, the opening of European borders through the

Schengen agreement, and the economic difficulties of the post-cold war transition have again combined to create a situation in which “Gypsies” have become a target for the ire of state authorities, “barbarians” who are “beyond the law.” The contemporary strategies employed by the authorities have their roots firmly planted in the policies German and Italian authorities employed at the end of the 19th and beginning of the 20th century. Even as we live in the midst of the EU’s “decade of Roma inclusion” (2005–15), recent events have described a decidedly opposite trend. In 2008, Prime Minister Silvio Berlusconi ordered the fingerprinting of the Roma population living in Italy, including minors. While criticism of the move was rampant (and focused almost exclusively on the children), the European Commission allowed Italy to move forward with its plan.¹⁵ In response to the alleged attempt of a 16-year-old Roma girl to steal a baby from a Naples apartment, vigilante groups in Naples burned two Roma camps and chased the Roma from the city. In 2008, Berlusconi described the Roma as an “army of evil,” dismantling several nomad camps in the country. The Berlusconi regime also passed laws making the expulsion of foreign nationals easier, and it is widely believed that these laws specifically target Roma migrants.¹⁶ In 2011, outside of Turin, a Romani settlement was burned to the ground after a teenager falsely accused two Romani men of rape. In France in 2010, the Sarkozy government cracked down on Roma migrants from Romania and Bulgaria (those states have, significantly, *not* been allowed in the Schengen zone for reasons of internal security), deporting at least 1,000 Roma from 200 settlements. Significantly, the Interior Minister Brice Hortefeux said the measures were “not meant to stigmatise any community, regardless of who they are, but to punish illegal behaviour.”¹⁷ The expulsions have continued under Francois Hollande’s Socialist government, with interior minister Manuel Valls positing in 2013 that Romanian and Bulgarian Roma are incapable of assimilating to French society and must be expelled.¹⁸ Germany has expelled several thousands of Roma in recent years as well. Finally, the 2011 expulsions and legal battle over the status of Dale Farm in the UK highlighted yet another confrontation over the illegality of Roma/Traveller behavior when they legally purchased “green belt” land and were denied permits from the town council to build on that land.¹⁹ Town councils continue to work against allowing Traveller settlements in or near their towns. The situation of Roma in Eastern Europe is critical: regular bouts of violence directed against Roma have been a feature of life in countries like Romania or Hungary. More recently, an outbreak of violence against Roma in Bulgaria, which generally enjoyed peaceable relations with its

Roma population, marked a general trend of increased violence toward, and vigilance of, Romani populations throughout Europe.

Recent and historical actions of Western European governments toward Romani populations seem to have a similar tension at their core: the tension between equal treatment before the law and ridding the national state of a community deemed to be “barbaric,” and “illegible.” The quickest comparison that commentators reach for when describing the contemporary treatment of citizens (or non-citizens) of Romani descent is that of fascist Europe. EU Justice Commissioner Viviane Reding, speaking of the French deportations, stated that “this is a situation I had thought Europe would not have to witness again after the Second World War.”²⁰ However, as Robert Zaretsky and Olivia Miljanic argued in the *New York Times* in 2010, perhaps we might be better served by focusing on continuity with earlier forms of state control of Gypsies, like the 1912 French law ordering the issuance of a *carnet anthropometrique* for all Gypsies and nomads.²¹ The *carnet* allowed for the control and monitoring of the Gypsy population – its purpose was to marginalize Gypsies living *within* the French state, but to separate them simultaneously from the body of the national population. As Martine Kaluszynski points out, the action, nominally basing its criteria on residency alone, “demonstrated the contradictions of a law that sought to injure a group that it had great difficulty defining. For how could one distinguish legally between gypsies and other nomads? This distinction was even more difficult given that France was a country of positive law, which made it impossible to introduce a law based on ethnicity.”²² As Scott, Lucassen, and Dandeker assert, the real question to examine is that of the development of the bureaucratic state and the transition between the early modern and modern state, not only in its authoritarian form. Reaching back toward fascism is almost “too easy,” as it does not get to the heart of the project of making citizens legible in modern and bureaucratic nation-states.

While most of the work I have discussed thus far falls more into what Dandeker would characterize as the “Machiavellian” analysis of the development of the modern bureaucratic state, I do not intend to paint the modern, liberal, nation-state as an inherently evil or destructive institution. Modernity is not always a threat, nor is it always bad, argues Ross Dickinson in a plea for historians to present the modern nation-state in a more balanced light. Jane Caplan and John Torpey, in their work *Documenting Individual Identity*, attempt to strike just such a balance between the “emancipatory and repressive aspects of identity documentation.” The state does not only, *pace* Foucault, institute

information gathering as a method of social control in the “interests of dominant elites” for the purpose of repression. While Scott seems to see the project of legibility as sinister and depressing in many ways, historians like Edward Higgs see that many legibility projects served to improve the lives, not just of the dominant middle classes, but of the working classes as well.²³ Thus, it is dangerous to paint the modern bureaucratic (usually liberal in ideology) nation-state as somehow an inevitable precursor to fascism (or as Scott terms them, high modernist authoritarian states). Instead, I believe it is more informative to look at the choices pursued by the governments of the German and Italian nation-state and to pinpoint what about those choices, in relation to Gypsies, may have unintentionally cleared the way to the *Porrajmos* (a Romani term, coined by Ian Hancock, for the mass killing of Gypsies during World War II) and the interning of Gypsies in concentration camps during Mussolini’s rule.²⁴ I argue that emancipatory moments existed during the foundation of the liberal nation-state both in Germany and Italy, but concrete choices on the part of the governmental authorities led them down the path of increased prejudice and marginalization. Leo Lucassen has used a more Marxist (in Dandeker’s perspective) or systems-based analytical approach to demonstrate exactly this point: the choices states make about, for example, how to structure the welfare state, the relationship between the police and the executive branch, and the type of the relationship the central state establishes with the local authorities, all matter for how that state will later treat its Gypsy populations. He argues, for example, that Higgs’ more benevolent bureaucratic state is quite particular to England. While the English and German states were broadly similar in the 16th century, by the 17th century, for Lucassen, things began to diverge. Persecution of Gypsies in England lessened because of specific changes in the nature of the development of the police (German police functions are broader and more comprehensive), and the welfare state (in Germany, poor relief was tied to residency, whereas it was not in England).²⁵ Decisions made by central authorities, and later in Germany, by national authorities, had specific effects on those populations labeled as Gypsies. The initial goal was not always to persecute or not persecute Gypsies, but can be tied to other local considerations. Nonetheless, those decisions had specific effects on those families and individuals who come to be labeled as Gypsies by the state.

I also want to place the treatment of Gypsy populations in Germany and Italy into their proper context. Gypsies were by no means the only persecuted population in prewar Europe. The poor, Socialists, foreign populations, Catholics (in Germany), Jews, and in particular, colonized

populations were often persecuted for various reasons, both legally and outside of the law. Edward Higgs, in his work on the growth of the information state in England, cites the example of the Habitual Criminals Act in 1869, which was later absorbed into the Criminal Registry, established in 1900. The registry “served to draw a line between the criminal, to be subjected to strict state surveillance, and a supposedly law abiding majority, who had a right to privacy.”²⁶ The Criminal Registry was inspired by the experiences in the Raj, where authorities had begun collecting fingerprints because British authorities “claimed that all ‘natives’ looked the same to the Western eye.”²⁷ German colonizers perpetrated the Herero genocide in 1904 and the Italian liberal state invaded Libya in 1911, and Libyan families were left to starve in detainee camps and resistance fighters were brutally executed. Viewed in the light of these atrocities, the treatment of those labeled as Gypsies pales in comparison. Yet, I still believe strongly that this is a story that needs to be told for many reasons. First, while an awareness of the persecution of the European Romani minority has certainly risen since the 1970s, the *roots* of that persecution matter, and my goal in this book is to make an argument about what historical mechanisms contributed to the marginalization and functional, if not always nominal, statelessness of many European Romanies today. Second, historians have spent a great deal of time and energy writing, researching and thinking about the persecution of many of the groups I cited above, and I think, as a result of much of that intensive work on colonization, inequality, poverty, minority studies, women’s studies, and histories of the socialist movement, some of the worst abuses against these groups have been curbed (although certainly not all). The same cannot be said of contemporary Romani groups, and I strongly believe a historical conversation about *why* and *how* Gypsies lived outside of the law is critical to seeing contemporary Romanies in a new light.

The “State of Exception”

As historiography increasingly challenges the notion of German and Italian “exceptionalism,” I too began to question whether the treatment of Gypsies in these two states stemmed from their uniqueness as young nation-states in the 19th century, or whether their own actions might best be understood in terms of the wider functioning and operation of 19th-century European nation-states. The contemporary “state of exception” for European Romanies has its roots in the 19th-century nation-state rather than in the fascist era. The state of exception was first

elaborated in Carl Schmitt's *Political Theology*. Schmitt himself cites the ideas of Kierkegaard as formational in his own concept:

"The exception explains the general and itself. And if one wants to study the general correctly, one only needs to look around for a true exception. It reveals everything more clearly than does the general. Endless talk about the general becomes boring; there are exceptions. If they cannot be explained, then the general also cannot be explained. The difficulty is usually not noticed because the general is not thought about with passion but with a comfortable superficiality. The exception, on the other hand, thinks the general with intense passion."²⁸

Schmitt bases his definition of sovereignty on this idea of "exceptionality." "Sovereign is he who decides on the exception."²⁹ In both Germany and Italy at the turn of the 20th century, executive powers, not the legislative or judicial, had sovereignty over Gypsy populations, and were able, unlike legislative and judicial authorities, to place them outside of the law, in a state of exception. As Lucassen points out, this direct link to the sovereign power was based on concrete decisions about the role and function of the police, the development of the welfare state, and the expansion and control of state bureaucracies.

Giorgio Agamben, in Dandeker's framework, a distinct Machiavellian who tends to emphasize the repressive aspects of state power, elucidates the connections between Schmitt's ideas and what he views as a contemporary over-reliance on the "state of exception" to accomplish an end run around the rule of law. His works, *State of Exception* and *Homo Sacer*, offer a useful way of thinking about the process of categorization and marginalization of Gypsy populations in the period before World War I. Agamben critiques Foucault's image of the modern state, particularly the Panopticon model of modern state control laid out in *Discipline and Punish*.³⁰ Foucault almost automatically assumes the participation of the juridical system in the mechanisms of discipline. Agamben instead asks about those persons in the modern state who exist even beyond the boundaries of the juridical institutions, in a gray area simultaneously inside and outside of the law. In other words, Agamben would argue that Foucault's leper model of state control was not completely erased by the plague model: instead the leper model continued to coexist in a modified form alongside the plague model.³¹

Agamben argues that "prison law only constitutes a particular sphere of penal law and is not outside the normal order," but that the state

of exception and the *homo sacer* fall decidedly outside of the “normal order” described in Foucault’s work. In James Scott’s terms, there is a space outside of the state, the place for “barbarians” who resist, and remain outside of, the legibility projects of the state. Agamben employs three terms that can be effectively applied to understanding the particular process of marginalization Gypsies faced at the end of the 19th and beginning of the 20th century: *homo sacer*, the state of exception, and “bare life.” In Roman law, the figure of the *homo sacer*, or “sacred man,” is he who can be killed but not sacrificed. Key to Agamben’s understanding of this figure is the idea that the *homo sacer* “is simply set outside human jurisdiction without being brought into the realm of divine law,” or in other words, is doubly excepted both from human law and divine law.³² At the same time, the *homo sacer* is included within the community by his very exclusion: a *homo sacer* cannot exist without his assignment to the category by the sovereign himself. Agamben argues that the *homo sacer* is tied inextricably to the sovereign and his power over the exception. The sovereign is the one who can include or exclude the “exception” within the “normal” order, thus creating a special relationship and a strong tie with those he “excepts.” The state of exception is where the figure of the *homo sacer* takes shape: “*being-outside, and yet belonging.*”³³ Applied to thinking about the Gypsies, they emerge as a group both wholly outside of the national community in Germany and Italy, yet tied to it by virtue of their births, their livelihoods, and their relationships to executive authorities, who placed them in the state of exception. As Scott argues in his analysis of Southeast Asia, the increasing bureaucratic power of the state at the turn of the 20th century makes a completely independent life apart from the state impossible. Agamben argues that because the state of exception is both inhabited by and controlled by the sovereign power, those living in the state of exception are tied to that sovereign: “The *exception* is what cannot be included in the whole of which it is a member and cannot be a member of the whole in which it is always already included.”³⁴

“Bare life,” then, in Agamben’s theory, is the life of the *homo sacer* living in the state of exception: a life abandoned to the whims of the sovereign power. “For *homo sacer*, finally, we are confronted with a residual and irreducible bare life, which must be excluded and exposed to a death that no rite and no sacrifice can redeem.”³⁵ Gypsies, with the emergence of bureaucratic control and policing methods in the early modern and modern periods, moved from a system of violent control to a system of bureaucratic control, first on a local level, and over time on a national level. The net effect of this transference from

local to national and from violent control to bureaucratic surveillance was a separation from the equality before the law granted to citizens. Gypsies came to embody the “state of exception” as their juridical standing in the modern state was withdrawn. To return to Dandeker’s definition of the modern bureaucratic state, the bureaucrats actually ended up reinscribing the “whim or discretion of the head of state,” or at least its bureaucratic representatives, on those who were not bound to the national community. The treatment of Gypsies proves to be the “exception” that further elucidates the development of the bureaucratic state.

Nationalism and Liberalism: The Defining Moments of the 19th Century

The modern bureaucratic nation-state developed in tandem with two powerful forces that dominated the 19th and early 20th centuries: nationalism and liberalism. Understanding these forces can shed light on the social conditions that groups labeled as Gypsies lived under, and can lend insight into why German and Italian authorities acted as they did towards Gypsies. The literature on nationalism following the linguistic turn in the social sciences has addressed the ways in which the nation-state is constructed or imagined within the boundaries of already existing states. John Breuilly employs the term “political nationalism” to describe 19th-century state based nationalism. Political nationalism is employed by a state or movement to unite a “body of citizens” and a “cultural collectivity.”³⁶ In his analysis, Breuilly asserts that “once the modern, territorial, and sovereign state had developed, there was an overwhelming tendency for the population of that state to identify with or against that state on national terms. By the time the nation-state was generalized through much of Europe – though as much because of lost wars and external interventions as because of the power of nationalist movements – then everyone had come to speak the language of nationalism.”³⁷ Breuilly unwittingly presents here one of the problems raised by Scott in attempting to deal historically with the Gypsy population. Breuilly uses universalist language, assuming that indeed *everyone* did speak, and wanted to speak, the “language of nationalism.” In fact, as Scott points out, those classified as Gypsies were not speaking the language of nationalism at all: while state authorities developed ways of speaking about Gypsies as a group, they had not yet responded by speaking of themselves as a unified group. In fact, they resisted any kind of definitive categorization purposefully. Scott

terms the process of creating ethnicity as a direct response to nationalist expectations and the expansion of the nation-state as “radical ethnogenesis.” “The Gypsy” originally existed as the “barbarian” in the eyes of state authorities and inhabitants, but the use of that identity and the growing strength of bureaucratic legibility movements led those labeled as Gypsies to shape and create their own nationalist identity in response to the legibility projects of the state. The development of identity works as a way to keep the projects of the nation-state at bay as long as possible: “like a chameleon’s color adapting to the background, a vague and shape-shifting identity has great protective value and may, on that account, be actively cultivated by groups for whom a definite, fixed identity might prove fatal... such plasticity affords outsiders no easy institutional access.”³⁸ *Gypsies in Germany and Italy* contains myriad examples of Gypsies using the very plasticity and indefinite characterization used by the authorities to resist the legibility projects of the state. Even within these examples, however, it is clear that their ability to resist the nation-state and its increasing powers were on the wane. Nonetheless, the fact of the most recent national attacks on Gypsy groups throughout Europe is testimony to the enduring legacy of the “radical ethnogenesis” of Gypsy nationality and its ability to inspire “passionate loyalty.”³⁹

Gypsies in Germany and Italy, 1861–1914 is thus engaged in studying what Rogers Brubaker terms “the politics of categories”: how state authorities “proposed, propagated, imposed, institutionalized, discursively articulated, [and] organizationally entrenched” the category of *zingari* and *Zigeuner*.⁴⁰ In an age where nationalism and the categories deriving from it were of supreme importance, so much so that “everyone” spoke the language of nationalism, the Gypsies were categorized as a group without a nation, and they used the parameters of their categorization to resist state legibility projects with varying degrees of success. Some of the “Gypsies” described in the book clearly attempted to join the majoritarian “civilization” and assimilate to the nation-state; however, assimilation often proved difficult because the category of Gypsy is always defined as already-outside. Once the label Gypsy was attached, it became difficult to shed. Some Gypsies sought to remain outside and to avoid the surveillance of the bureaucratic state. This strategy, too, proved difficult as the powers of the bureaucratic state increased, and the nation-state became more capable of controlling population movements. In both cases, of assimilation and resistance, Gypsies in Germany and Italy existed in the “state of exception” – being outside, and yet belonging to, the nation-state. Bureaucratic officials tied to the executive power reinscribed the state of exception by treating Gypsies in an

arbitrary manner that left them stateless and struggling by the time of World War I.

Pierre Bourdieu addresses another problem that is central to understanding the interaction of state authorities in Germany and Italy with Gypsies: the conjunction of liberalism, with its universalistic and individualistic ambitions, and nationalism, with its links to increasingly exclusive membership. These forces worked together to form the new states in Germany and Italy, complicating issues of unification, and both indirectly and directly had an impact on the way bureaucrats on all levels of the state thought about Gypsies. These ways of thinking in turn had an impact on ordinary citizens in their interactions with the bureaucrats.⁴¹ Understanding the impact of liberalism on the development of nation-state relations with Gypsies requires a departure from the "Machiavellian" approach to the development of the bureaucratic state stressed thus far, and a shift to a more "Marxist" or systems-based approach to understanding the development of relations between state authorities and Gypsies.

The "common forms and categories of perception and appreciation" in late 19th and early 20th century Germany and Italy regarded Gypsies as extrinsic to the national community, despite their everyday presence inside of it.⁴² Even in Germany, where certain groups of those classified as *Zigeuner* were considered at least initially to be "German," by the turn of the century it became more and more difficult to claim "Germanness" once the authorities applied the label of Gypsy. Liberalism's "effect of universality" conflicted with executive authorities' project to target a single group for exclusion. Executive authorities had to decide between including and "disciplining" Gypsies within the juridical order and removing them from the national community altogether, which made legal protections inaccessible. In Germany and Italy, authorities chose the latter. Their choices were not only based on an active desire to surveil and/or repress unwanted populations, but were also shaped by considerations of how best to administer the state welfare system (based on residency or not), and how to shape state power – a decentralized, local system of governmental power, or a more centralized, authoritarian system of governmental control. Both Italy and Germany struggled with these questions, and sought to resolve them in a way they thought best for the citizens – but those decisions, in turn affected those who were coded as "barbarians."

Leo Lucassen, who takes a more systems-based approach to understanding the nature of the relationship between Gypsies and state authorities, shows the value in understanding the development of Gypsy policy in the larger framework of the emergence of economic

liberalism along with nationalism. The simple fact that Germany reformed welfare laws in the 19th century to focus on the *Heimatprinzip* (principle of residency) led to repressive approaches to Gypsy policy; it “created a class of itinerant people who were permanently excluded and did not have any home parish to which they could turn, and thus presented a continuous threat to local authorities.”⁴³ An economic approach to the question of Gypsy statelessness helps to explain a later turn toward the “state of exception.” Another excellent example illustrating the value of an economic systems approach is the emergence of the “freedom of movement” laws in the second half of the 19th century, as a counterpart and support to the liberalization of European economies. Lucassen stresses that the implementation of passport regimes had concrete positive and negative effects for Gypsy populations. Passports often gave marginalized people another tool in their arsenal of resistance to the encroachments of the bureaucratic state. For instance, Hungarian, Russian and Austrian Gypsies made sure they had valid passports when traveling to the Netherlands (and, as I will demonstrate later, often to Germany and Italy) because it limited the ability of the authorities to expel them. They could also use the passports to claim support from their country’s embassy in the Netherlands or elsewhere.⁴⁴ Despite the fact that foreign passports were designed to control migration and prevent free movement for the destitute (a “Machiavellian” repressive goal), they became a way to resist disciplinary bureaucratic measures. At the same time, however, it is important to note that increasingly strict supervision of internal migration and more bureaucratic provisions for the internal surveillance of the poor became more and more of a feature in the life of German Gypsies by the early 20th century. The German historian Hans Ulrich Wehler describes the role of liberalism in Gypsy policy in the following way: “liberalism always stops at the gates of the lower classes.”⁴⁵ The very abolition of internal passports for the wealthier classes (inadvertently) provoked an administrative, bureaucratic response that ramped up surveillance of Gypsy and other marginalized populations and led, in the case of Germany and Italy, to them being placed in a “state of exception” to avoid state responsibility for their economic welfare.

In one sense, choosing the “state of exception” allowed both Germany and Italy to maintain at least a nominally liberal approach to lawmaking while upholding the dictates of an increasingly exclusionary nationalism. In this book, I take liberalism to mean the ideas developed in the 19th century that postulate “liberty as the natural human condition”

and employ politics as the means by which to protect this liberty. Fundamental liberal values include religious toleration, “the priority of liberty over authority, the secularization of politics, and the promotion of constitutions of government and principles of law that establish the limits of government and the rights of citizens against government.”⁴⁶ The rise of the liberal state parallels the rise of the modern bureaucratic state described by Dandeker. European liberalism in the late 19th and early 20th century abandoned some of the extreme individualism of early 19th-century liberalism, and condoned the intervention of the national state in human welfare; liberals during this period grew increasingly comfortable with intervention in the maintenance of the “health” of their populations. The European central state began to take a more “statist” approach to policy, and citizens tended to look more to the central state rather than local governments for solutions to their problems.⁴⁷

The outlet provided by the “state of exception” allowed for a “radical elimination” of the people who were not categorized as a part of the universal whole. Agamben argues that the Jews “are the representatives par excellence and almost the living symbol of the people and of the bare life that modernity necessarily creates within itself, but whose presence it can no longer tolerate in any way.”⁴⁸ In so doing, he echoes Hannah Arendt, who makes similar arguments in the *Origins of Totalitarianism*:

It would seem that the very undeportability of the stateless person should have prevented a government’s expelling him; but since the man without a state was “an anomaly for whom there is no appropriate niche in the framework of the general law” – an outlaw by definition – he was completely at the mercy of the police, which itself did not worry too much about committing a few illegal acts in order to diminish the country’s burden of *indésirables*. In other words, the state, insisting on its sovereign right of expulsion, was forced by the illegal nature of statelessness into admittedly illegal acts.⁴⁹

Gypsies, like Jews, are equally representative of the trends both Arendt and Agamben attempt to illustrate, in the sense that from the founding of Italy and Germany as nation-states in the late 19th century, they were *always already* excluded, at the same time as they were inextricably tied to those very nation-states through a web of bureaucratic, administrative regulations which established the category of Gypsy as *outside* of the community. The tension between nationalism and the

universalist bureaucratic state led executive authorities to violate their own constitutional principles.

Telling the Story of Gypsies

Using insights from both the Machiavellian literature on the expansion of the bureaucratic state in the modern era, Marxist insights about the changing nature of capitalism and society at the turn of the 20th century, and employing the lens of the state of exception provides an important corrective to a great deal of the historiography regarding Gypsies in Europe in general, and Germany and Italy in particular. One of the major and most important debates among historians studying people labeled as “Gypsies” by state authorities concerns the issue of the ethnicity of those labeled as “Gypsies.” Angus Fraser, Ian Hancock, and Thomas Acton, among others, strongly argue for an ethnic Romani identity apart from, but simultaneously shaped by and shaping, the labeling of “Gypsy” provided historically by outsiders. Fraser’s *Gypsies* is self-consciously part of a series on the *Peoples of Europe*, and his goal in the work is to retain a clear ethno-cultural identity for Gypsies while also arguing that “After so many centuries, they have every claim to be considered ‘of Europe.’ They are indeed among the continent’s few pan-Europeans.”⁵⁰

Other historians like Lucassen value an ethnocentric approach but argue that a systems-based approach, as I described above, may also be quite helpful in understanding the way in which Gypsies become a category in the parlance of state authorities. In *Gypsies and Other Itinerant Groups: A Socio-Historical Approach*, Leo Lucassen, Wim Willems, and Anne Marie Cottaar attempt to “normalize” Gypsy existence, including other broader groups of vagrants and travelers in their analysis, and show that the idea of Gypsies as a unitary “people” is mistaken and leads to faulty historiography and misguided analytical approaches. However, in seeking to deconstruct the “ethnic” identity for Gypsies, they themselves assume the migratory nature of the population.⁵¹ In the introduction to their work, the authors define Gypsies as “those who lead an itinerant way of life and who are stigmatized as Gypsy or who have been given similar labels.”⁵² Gypsies tended, even in the late 19th and early 20th centuries, to be much more sedentary than we imagine. Those living in the border regions (like Piedmont or Bavaria) may have *seemed* more mobile because they crossed national borders more frequently than groups located inland. Of course, some groups did make a living by traveling, but not all. However, the diversity of groups within

the category of "Gypsy" does support the authors' perspective that the only reason we talk about Gypsies as a clearly defined group is because state authorities worked hard to attempt to create a hard and fast category in which to place them. As Scott observed, Gypsies themselves adapted to and rebelled against their categorization and stigmatization, and in this way to some extent also shaped their categorization, and created a separate ethnicity themselves.

Two questions motivate the work of Lucassen, Cottaar and Willems: (1) How have Gypsies and other itinerant groups been looked upon and treated by society and (2) what was the social and economic position of Gypsies and other itinerant groups through time and how has this been influenced by government policy?⁵³ The approach of the three authors is to ascertain how individuals were placed into stigmatized groups, and they find that there were five factors at work: categorization, emergence of negative images that color the perception of a category, formation of a stigma, labeling, and stigmatizing. They also seek to break down the stigmatized imagery surrounding the socio-economic status of Gypsies by approaching them as individuals attempting to make a living, often successfully.⁵⁴ They argue that historians make the mistake of adopting the vision of state authorities who have created the category of Gypsies as *homines sacri*, as "exceptions" unworthy of the protections of the modern state. The process of adopting dominant categories as accepted fact becomes, in short, "a death-trap."⁵⁵

Thomas Acton strongly objects to Lucassen's contention that Romanies should not be considered primarily as an ethnic group, stating that "the Roma are at least as real as the Dutch, and that reality constrains the representations even though it is true that the representations, being themselves also part of reality, may help to reshape reality over time."⁵⁶ His jab at the Dutch demonstrates that if we cannot "prove" a Romani cultural identity, neither can we "prove" the existence of any ethnic identity at all. I fundamentally agree with Acton that it is impossible to deconstruct away the idea of a Romani ethnic identity, and that doing so is, in some way, yet another form of marginalization of the group. Why should they have less right to self-define as Romani than any other ethnic group? Nonetheless, I have found both approaches useful in thinking through the relationships between state authorities and those they label as Gypsies. In short, I think that Scott's "radical ethnogenesis" is helpful in synthesizing both approaches. "Gypsy" or Romani ethnicity is real, as real as any other form of identity that any of us may construct for ourselves, but the conditions of its creation are key to understanding the identity itself. Before anyone adopted the term

Romani, there was a category of Gypsy (that still exists), which is created and shaped by a relationship between state authorities and those categorized, from the early modern period onward. Those labeled as Gypsies, in their attempt to resist increasing state encroachment on their lives, developed a flexible and adaptable identity in response to state bureaucratization. The nature of the construction of Romani ethnicity is, thus, in some ways, fundamentally similar to the creation of the Dutch ethnicity – that is, it develops in relationship to what it is *not*; but in other ways quite differently, because it always already exists as outside of the construct of modern statehood: to use Scott's terms, it is a "barbarian" identity in the eyes of modern bureaucratic states. Regardless of the ethnic status of those being categorized, critically appraising the factors that lead to their categorization helps to understand the mechanisms of exclusion in the modern bureaucratic nation-state. A synthetic approach like Scott's can help to resolve the difficulty experienced by Lucassen, Cottaar, and Willems of including the constructed category of Gypsy with vagrants and travelers, which assumes the migratory lifestyle of all those groups, when such an assumption about those who ethnically identify as Romanies would be unquestionably false. Recognizing Romani identity recognizes that it is not a group based solely on behavior, and what is often assumed to be criminal behavior – but a culture with a defined right to be recognized, as Fraser argues, as a people of Europe.

The behavioral versus ethnic/cultural debate in Romani studies influences the historical literature on Gypsies in both Germany and Italy. The bulk of historical literature on German Gypsies focuses on the genocide of Gypsies during the Nazi regime.⁵⁷ Research on the Holocaust has led to deeper exploration of the history of *Zigeuner* as a stigmatized group within German society, detailing hindrances to their access to full citizenship rights and their eventual attempted "eradication" from Germany. Literature focusing on the period from 1870 to 1914 is limited to a few works with a common flaw: they tend to take the figure of the "Gypsy" as a given (or at least some aspects of it, like their supposed migratory lifestyle), rather than as a category (and a stigma) in flux.⁵⁸

Research in the field of *antiziganismus* (anti-Gypsyism) has recently blossomed in Germany, and a representative work is Marion Bonillo's *"Zigeunerpolitik" im Deutschen Kaiserreich 1871–1918*. Bonillo argues that the persecution of Gypsies in the *Kaiserreich* was racialized. While the literature concerning this time period is relatively small, most works tend to take the perspective that Gypsy policy did not become "racialized" until at least Weimar (in 1926, Bavaria passed a "Gypsy and Workshy

Law" that had definitive racial characteristics). While Bonillo has a valid point, and racism against Gypsies certainly existed before Weimar, she sets up a straw man in her critique of Lucassen and other historians taking a similar approach.⁵⁹ Arguing that social scientists should not view the persecution of Gypsies solely through the lens of racism does not mean that racism against Gypsies does not exist, and Lucassen would not deny that it did. Instead, however, he would argue that it may not matter as much as we might think. In his discussion of the development of eugenics in 20th-century Europe, Lucassen argues that what matters is the conceptualization of class difference in the development of eugenics. So, for example, societies with a "communitarian organic" approach, like Germany and Italy, tended to see citizenship as "conditional and intended only for those with the right social attitude," while class-bound approaches (France, England) tend to have strong civil societies and view the main problem as one of correcting capitalist injustices. In this imagining, Gypsies do not have to be racially different for eugenics or socially repressive legislation to be created, and the source of repressive policies can be either the right or the left.⁶⁰ The treatment of Gypsies depends less on racial attitudes than on systemic economic and political factors. In shaping the category of Gypsy, and moving it into a state of exception, the *Kaiserreich* certainly utilized racial stereotypes of Gypsies. The question must be answered, however, as to *how* and *why* the category of Gypsy becomes racialized, and what stigmas attach to this category in this particular period. And how did the stigmatized themselves respond to their treatment at the hands of the authorities? Simply arguing that Gypsies were a racial group all the way back in the *Kaiserreich* does little analytical work other than helping to draw a teleological conclusion that the persecution of Gypsies throughout German history culminated somehow in the Porrajmos, rather than recognizing the specificity and uniqueness of the prewar moment. Bonillo offers as evidence the plans discussed during the Munich Gypsy conference of 1911 to ship off homeless Gypsies to German colonies, or the idea of the military authorities to intern Gypsies at the end of World War I.⁶¹ The fact is that these early plans were not realized. Why not? The idea of equality before the law and the rational bureaucratic state established by the German constitution made the persecution of Gypsies a more complicated affair. Herbert Heuss mentions the 1926 Bavarian anti-Gypsy law and points out that there is no extant evidence that anyone was ever actually prosecuted under the law, and points out that its function, rather than being "racism" was instead to "implement a change in the function of the police. It was now possible for the police not

only to prosecute offenders, following the commission of a criminal offence, but also to take independent preventative action.”⁶² In other words, legal positivism is more of a driving force behind the law than an “eliminationist” form of racism. Heuss reminds us that as long as the Weimar Republic continued to exist, Roma were undoubtedly discriminated against, but their physical existence was not questioned.⁶³ Rather than seeking the elusive roots of Nazi racism toward “Gypsies”, I think it is a considerably more productive approach to inquire about the mechanisms through which Gypsies were placed further and further outside of the national community. Creating a “state of exception” for Gypsies was a process linked to concrete choices on the part of executive authorities in response to the actions of the judiciary and the norms of the modern bureaucratic state.

The other shortcoming in Bonillo’s work, as well as that of others, is that they tell the “saga of defeat, persecution, and marginalization” without taking into account the agency of the Gypsies themselves.⁶⁴ Moreover, she constantly refers to “Roma and Sinti” in an anachronistic fashion that is completely out of place in talking about the *Kaiserreich*. First, using this generic “Roma and Sinti” makes it sound as if there are only two groups under the heading of *Zigeuner* used by the *Kaiserreich* authorities, and that these groups somehow self-identified as Roma and Sinti. There is no evidence to support this. While the source base is limited and one-sided, the *Zigeuner* never refer to themselves as Roma and Sinti, and the scientific literature of the time period rarely refers to these groups either.⁶⁵ In today’s sociological and anthropological literature, many Romani subgroups have been differentiated, not just Roma and Sinti, so this anachronism seems inaccurate at best. In addition, individuals could be classified as a member of this category with none of the attributes that today we might consider to be “ethnically” Roma, Sinti, Xoroxane, Kalderash, etc. The confusion points to an ongoing slippage between the usage of the terms “race” and “ethnicity” in social scientific literature. Roma, Sinti, and other groups living in Europe today are ethnic groups that *self-identify as such*.⁶⁶ They make claims for inclusion in the nation-state based on these ethnic identities. This issue is particularly tricky with groups whose “ethnogenesis” is rooted in resistance to state control. The stories they tell about themselves are active strategies to achieve political goals.

Current Italian literature on the Gypsies provides a sociological and political focus on the contemporary situation of Gypsies within Italy, and most historical study focuses on the period before the French revolution.⁶⁷ Leonardo Piasere, an anthropologist, in his work *I Rom d'Europa: una storia moderna*, offers the outlines of a general history of

the Romani in Europe, and attempts to seek out how different groups of Romani interacted with the people around them.⁶⁸ Piasere specifically expresses his discomfort with the common practice of replacing the term *zingari* or *zigeuner* with the equally oversimplified “Roma and Sinti,” which, in his opinion leads to the “essentialization” of the groups which they denote, so much so that “these groups are considered to be ‘ethnicities’ or ‘sub-ethnicities’ that have always been distinct.”⁶⁹ Piasere, like Hancock and Fraser, contends that the Romani were a unified group when they entered Europe centuries ago, and that interaction with the peoples of Europe led to the vast splintering of groups in evidence today. He also points out the difference between this core group, which he denotes as Rom, and the *zingari*, which includes and included people considered *gaje* (non-Rom) by the various groups. For example, in Italy, the *caminanti siciliani* (Sicilian travelers) are considered *gaje* by the Roma in north-eastern Europe, but most *gaje* consider them to be *zingari*.⁷⁰ Piasere’s work thus reinforces the point that the historian has to tread with caution when attempting to analyze Gypsies from a racial or ethnic perspective, and reinforces, to some extent, Scott’s radical ethnogenesis thesis. Ethnicity is produced by a variety of factors, both exogenous and endogenous to the group studied. In the case of Gypsies, the story they tell about themselves is shaped by their interactions with state authorities throughout centuries in Europe. I specifically use the terms *zingari*, *zigeuner*, or Gypsy since I have no way of knowing if the people I talk about might be considered ethnically Rom by today’s standards.

Piasere also offers a general historical perspective on the development of Gypsy ethnicities throughout Europe, highlighting differences between Western and Eastern Europe. For instance, Gypsies were enslaved in Moldavia and Wallachia until 1848, and Western European policies focused increasingly on banishment and repression through the Enlightenment period, then a period of forced assimilation in Spain and Austria. He argues that by the late 19th century, the vision of Gypsies in Europe changed with the advent of biological racism and evolutionary theory, the stigma attached to Gypsies became irreversible, the behavior of the Gypsies was criminalized and they fell increasingly under the sway of the newly organized police and judicial apparatus of the nation-state. The importance of the judicial apparatus only tells part of the story, however, because, as I demonstrate in the following chapters, in looking through the lens of the “state of exception,” the judicial apparatus grew increasingly *irrelevant* during the early 20th century as a tool for Gypsy control, while the power of the police, under the direct control of the executive branch, continued to grow. Piasere also reminds us

that Gypsies were more than passive victims of bad government policy. As Piasere asserts, the Rom were identifiably and wholly European in character, and he disparages attempts to classify the culture as atavistic or linked somehow to supposed Indian roots. As Scott observes, historians should seek to replace labels like “atavistic” or “uncivilized” with “not-a-state-subject” and our analyses would be considerably improved (if not our grammar).⁷¹

Alessandro Simoni has written several pieces on the legal history and status of Gypsies in Italy. He offers an excellent account of the ways in which Gypsies have been discriminated against in law from the Napoleonic period forward, showing how generalized laws against begging and transience were applied to *zingari* to control their movements and discourage settlement. He also has considered the related question of judicial opinion and the treatment of Gypsies, focusing on the figure of Alfredo Capobianco, a jurist who wrote a highly prejudicial book against Gypsies published in 1914. He blames the jurists for “having, and continuing to have – it is almost banal to say – a key role in the process of stigmatization, marginalization and criminalization of particular groups of persons classified as ‘*zingari*.’”⁷² While this is an important fact to point out, jurists were not *always* forces for repression and marginalization of Gypsy populations, but could sometimes, and often unwillingly, uphold the dictates of the modern, rational bureaucratic state in the face of executive arbitrariness towards Gypsy populations.

By questioning all assumptions regarding the amorphous category of “Gypsy” and seeking the roots of the categorization in the structures of the nascent national states in both Germany and Italy, I tell a new story of common challenges faced by all European states: the contradiction between the universalist, rationalist, modern bureaucratic state and the exclusionary nature of the “imagined communities” constructed by national authorities on all levels. From seemingly disparate starting points in Germany and Italy, I arrived at the conclusion that positing Gypsies as outside of the realm of law and justice, in a state of exception, allowed authorities to avoid many of the seeming contradictions caused by adherence either to liberal precepts or to equality before the law assumed in notions of the modern bureaucratic state.

Chapter Outline

In *Gypsies and Germany and Italy, 1861–1914*, I contextualize Bavarian and Piedmontese anti-Gypsy policies in a national framework. In any comparative project, it is necessary to determine when a local or regional

policy can be generalized to the national level and when a particular event or policy is a regional oddity. Particularly during the period of the expansion of the bureaucratic state in the late 19th century, understanding the interactions between local and national authorities can aid in understanding the nature of the state of exception and its role in the functioning of the bureaucratic apparatus. I will point out when a particular policy is, to my knowledge, a regional uniqueness, and when it applies to the nation as a whole. One example that immediately comes to mind here is the fact that recent work on southern Italy has demonstrated a much higher degree of social integration of ethnic Roma than was present in the north, dating back at least a century.⁷³ A study that focused, therefore, on the region of Sicily, Calabria, or Puglia might have yielded different results, but the nature of the integration would make study of this region very difficult, since very few people actually were labeled *zingari*, and therefore almost no archival evidence exists.

The book provides local, national, and international comparisons to explain the process of creating a stateless people living in a state of exception. The turn to the state of exception does not happen immediately, but evolves over time, both because of executive level frustration with their inability to rid themselves of an unwanted population, Gypsies' own responses to executive level policies and their own procedures of self-defense, and a changing international climate that sought more control over borders, migrants, and "undesirables."

Chapter 2 compares the executive organization in both Germany and Italy at the end of the 19th century, and explains the relationship between sovereignty, executive power, and the system of checks and balances inherent in the constitutions of both Germany and Italy. In particular, the focus in this chapter is the organization and powers of the police, who were the front lines of defense against unwanted Gypsies. They often operated to criminalize and marginalize Gypsies *within* the confines of the law, with varying levels of success. One of the biggest challenges they encountered was an inability to identify, define, and label the category of Gypsy they were trying to target, leading to confusion and miscommunication between the police forces and executive powers. Over time, the expanded nature of the bureaucratic state leads to a better ability for police to track and surveill Gypsy populations, which in turn tended to "denationalize" Gypsy populations, thus creating the situation of statelessness described by Arendt. Fingerprinting, photographs, and increased border surveillance helped to eliminate certain groups of Gypsies as national residents and effectively made them *homines sacri*, both outside of the nation-state and tied to it.

Chapters 3 and 4 focus on the strategies of exclusion employed by executive authorities, Agamben's "sovereign powers," in Germany and Italy. Executive authorities gradually stripped Gypsies who had claims to national citizenship of all protections offered to the national community. Tensions among the different layers of authority emerged, as the local authorities bore the brunt of the directives from higher level authorities, but were often short on the funds, manpower, and time to implement them. The arguments between interior ministers, foreign ministers, and other governmental officials expose a tension between the universalist norms of the modern bureaucratic state and the national project. Over time, executive authorities' frustration with the limits of a law that was supposed to apply equally to everyone, and a judiciary that continued to uphold that premise, led authorities in Germany and Italy to devise a way around the system. Chapters 3 and 4 also explicitly address the implications of the difference between the centralized Italian state structure and the more decentralized, federal nature of the German state for the treatment and exclusion of Gypsies. The treatment of Gypsies is placed in the larger context of persecutions of other "unwanted" outsider groups; specifically, the case of Poles in Germany and "brigands" in Italy.

Chapter 5 demonstrates the resolution of the tension building between state authorities from the 1860s until the first decade of the 20th century: the myriad executive regulations, the complaints from lower level executive authorities and the police, the frustration with the inability to solve the problem via executive regulation and police harassment, the discomfort with the idea of passing a specific law against Gypsies, and the dictates of creating a homogeneous national community, all combined to lead national executive authorities to choose to place Gypsies in a "state of exception." Gypsies became stateless people who lacked nationality completely. In Italy, the cholera outbreak of 1910 proved to be the factor leading executive authorities to a radicalization of previous policies, and in Germany, the 1911 Gypsy conference in Munich marked the culmination of executive authorities' attempts to solve the Gypsy problem without legislative involvement.

Chapter 6 highlights the importance of law and its universal applicability in the modern nation-state. The norms of the rationalist, modern bureaucratic state combined with the growing importance of liberalism, aided in the ultimate choice to place Gypsies in a "state of exception." Undergirding these concepts was the idea that the law could and should apply equally to all – even if that idea was regularly disrespected in practice. The courts presiding over criminal cases involving Gypsies both

willingly participated in the marginalization of Gypsies, but also could, to the frustration of executive authorities, uphold the dictates of law and stymie the attempts of executive officials to marginalize Gypsies *within* the confines of the law. Gypsies used the courts as a way to defend themselves from the arbitrary incursions of executive authorities, and the efficacy of their strategy led to the intensification of efforts to place Gypsies outside of the law.

In the conclusion, I discuss the consequences of the “state of exception” for Romani populations today. Recently, various European political movements have attempted to create a language of nationalism and unity for Gypsy groups in order to argue for rights upon the basis of their ethnic distinctiveness, with some success. Agamben’s theory, however, raises doubts as to the efficacy of that strategy. Instead, he points to the intrinsic connection between the nation-state and the *homo sacer*. Even if groups gain recognition and rights within the confines of the nation-state, the state of exception can always be decided upon by the sovereign power and the authorities in service of it – making a group who was once part of the national community suddenly “abandoned” to the whims of arbitrary power. In Scott’s language, this means that even the project of radical ethnogenesis will fail to preserve the unique and separate identity of the Romani community. The problem, for Agamben, is the notion of the universal human inherent in nationalist projects – the quest to make all people “like us,” and eliminate those who are not. This striving is inherent in the very roots of the nation-state and the study of the case of Gypsies, the study of the “exception,” as Kierkegaard alluded to, raises these larger questions, and may push nation-states toward the adoption of what Maurizio Fioravanti calls a “constitutional state” in which human rights are constitutionally guaranteed as inviolable, and no longer subject to the law, which can be all too easily evaded via the “administrative state,” or to use Agamben’s term, the sovereign power.⁷⁴ The long-term effects of the “state of exception” are still visible and omnipresent in the everyday lives of European Romanies, and understanding the sources and functioning of its 19th-century roots can only begin to reframe the questions we ask about the rights and future of European Romanies.

2

Complex Realities: Executive Power and the Police

In the expansion of the modern bureaucratic state, the development of the police force and its shift from local to national control was key. In the case of Gypsies, police forces served as the first point of encounter between the state and Gypsy populations. As executive authorities increasingly categorized Gypsies as outsiders who threatened the “civilized” society, police served as a protective force for citizens. Police were not only instruments of repression, but could often serve to protect members of the working class and rural populations, as well as the middle and upper classes, from those they viewed as threats. From the perspective of those who were labeled as Gypsies, however, the primary role of the police was to criminalize them by constant arrests and surveillance. Criminalization was a critical first step in creating Gypsies as a category apart from the national community. This process of criminalization, however, often proved more complicated than executive authorities intended. The definition of Gypsies offered by executives in their regulations was amorphous. The resulting confusion of the police led to incomplete and unsatisfactory implementation of executive directives, which in turn frustrated executive authorities on all levels of the state. The police were an important tool that executive authorities utilized to make Gypsy populations legible, but their “initiatives to give the national level much greater power to create uniform and interactive registration and thereby make this category legible always failed.”¹ Frustration led executive powers to think about new ways to exclude Gypsies that worked around the law, rather than within it.

Executive Power in Germany and Italy

The main authorities responsible for creating the category of Gypsy in both Germany and Italy were part of the executive branch. The

legislative authorities in Italy had almost nothing to say about Gypsies in the time period under consideration, while in Germany legislators agitated for laws against the Gypsies, but were unsuccessful. The judiciary played a key role in the implementation of anti-Gypsy regulations promulgated by the executive authorities, but often played only a marginal role in the creation of those regulations.

The executive structures of both Italy and Germany at the time of unification have been widely debated in the fields of political science and history. The most common representation is that of Italy as a highly centralized, "liberal" state with a limited, wealthy electorate that slowly expanded and reached a relatively democratic form of liberalism under Giovanni Giolitti around the turn of the 20th century. Ultimately, however, there was a "failure" of liberalism, blamed on a culture of *trasformismo* that led to the alienation of the "real Italy" from the political Italy and the rise of radical parties. In the Italian "model," the center, meaning both the sovereign and the cabinet of ministers, is generally perceived to hold a great deal of decision-making power, and to exert direct power over the rest of the country through the prefectural system.

Executive power in Germany was less centralized, with the states of the *Kaiserreich* having their own executive powers divided with Berlin, as well as their own police forces. In other words, Germany was a more "federalist" model, but with authoritarian tendencies emanating from the center. While Italy is often presented as a "failed liberal" model, Germany is often presented as a powerful, federalized state with an authoritarian executive structure symbolized by figures like Bismarck or Kaiser Wilhelm II.

The narratives described above have been challenged in many ways since the 1970s, but still have a surprisingly strong hold on generalized narratives, particularly comparative ones.² Beginning with A. William Salamone's *Italy in the Giolittian Era*, Italian liberalism has begun to look neither heroic (against a narrative of postwar "restoration" of liberal government), nor as a complete "failure" (in service of a postwar socialist or left-wing narrative viewing liberalism as a weak system fated to end in fascist authoritarianism). Instead, Italian liberalism before World War I was based on compromise, the exigencies of a highly fragmented populace, and a struggling economy. In other words, Italian liberals, both of the "right" in the 1860s and 1870s, and of the "left" in the 1880s and beyond, "made liberalism work" by piecing together coalitions and legislation to accomplish what they could, or thought they could, in challenging circumstances.³ While the "cabinet" governments of the liberal era were not selfless politicians working only for their country, they

did succeed to some extent in implementing the basic values considered fundamental to 19th-century liberalism: the “dominion of reason, the primacy of the individual, the value of private enterprise, the sanctity of property, the effectiveness of law as a guarantor of individual freedom, and the potency of the vote.”⁴ Italy also appears less centralized and more responsive to the demands of the regions once the historian’s gaze is shifted from the state’s view of itself to its actual functioning on the ground. Raffaele Romanelli has called this the divide between administration and politics. While Italian politics were undoubtedly centralized, Italian cities and their mayors often had a great deal of administrative power and flexibility, what he calls municipalism, and were not, in fact, always under direct central control.⁵ While liberal Italy certainly was not an unqualified “success,” liberalism itself was not an unqualified “failure.”

Historians of Germany, most notably Geoff Eley and David Blackbourn, have worked at breaking down the image of Germany as an authoritarian state heading straight from Bismarck to Hitler.⁶ They, like their Italian counterparts, have moved away from thinking about “failures of liberalism” to focusing on what worked in German society, and why political actors made the decisions they did. German “authoritarianism,” like Italian liberalism, has come to look considerably more like a pragmatic solution to the practical challenges of building the German state on the backs of disparate power centers with strong regional identification. The *Kaiserreich*, like liberal Italy, succeeded in establishing a state which, by the beginning of the 20th century, respected, in fact, many of the liberal values I outlined above, including a lively and contested parliamentary system. When pre-World War I Germany and Italy are viewed on their own terms, rather than through the lens of what succeeded them, their strengths become easier to see, even if their weaknesses are still clearly apparent.

In looking at the challenges to the “standard narrative” of pre-World War I history in Germany and Italy, several common features appear that complicate the dichotomized view of executive power in both states. In both places, the executive powers (i.e. the chancellor and the *Bundesrat* in Germany, and the Italian *gabinetto*) directly responsible to the sovereign exerted a great deal of force over the political direction of the nation-state, and presided over the expansion of the administrative, bureaucratic state. In both cases, those executive officials played a balancing game with local and regional authorities who tended to have a high level of administrative flexibility, which they had developed in the early modern period. The parliamentary system, while

increasing in power over the first decade of the 20th century, was relatively weak in comparison. Policing, whether by military forces (the Italian *carabinieri*) or by independent police forces, played an important role in the expansion of bureaucratic power. In both places, executive powers were constrained by the balance of power and the rationalist rule of law provided by their respective constitutional systems. Both also allowed for “rules of exception” for the executive power – a way to circumvent the law and the limitations on executive power if deemed necessary because of exigencies like war or civil unrest. The Italian state employed this strategy more frequently than the German, invoking a state of exception to brutally repress brigands resisting the Piedmontese state in the former Kingdom of the two Sicilies, or again in the south in 1893 and 1894 to suppress uprisings of the Sicilian peasantry. The government of Luigi Pelloux in 1899–1900 sought to circumvent parliament to combat rising labor activism and the growth of the parties of the left. Giolitti skirted parliamentary control during his actions in the cholera crisis that struck Italy in 1910 and 1911 (see Chapter 5).

In Germany, the executive power was more institutionally able to control the legislative agenda, because the power to initiate legislation, unlike in Italy, belonged to the Kaiser and his ministers. Thus, the chancellor or Kaiser was able to press the legislature to bend to his will and approve laws that violated the spirit of bureaucratic universalism, rather than attempting to perform an end run around the parliamentary and legal system altogether, as in Italy. The most obvious examples here were Bismarck’s *Kulturkampf* in the 1870s and anti-socialist laws of the 1880s. Both the Reich constitution and the Italian *Statuto*, aside from being closely modeled on the leading pre-unification states of Prussia and Piedmont, relied on a “legal and administrative order comprising a body of formalized legal norms and a rational bureaucracy.”⁷ Viewing the executive power in Italy and Germany as diametrically opposed may obscure more than it reveals, particularly when we attempt to see how the executive power exerted power over those defined as “outside the law,” like Gypsies.

What the comparison on the ground does reveal, however, is that the German state was able to exert more bureaucratic power and direct control over Gypsies, via the police and the judiciary, than the Italian. More than an issue of “centralized” versus “decentralized” power, the comparison reveals the “impossible command” facing Italian liberals at the helm of a relatively disjointed population, a vastly disparate economy, and the limited choices they were able to make with the resources allotted to them.⁸ The German state possessed more bureaucratic power

than its Italian counterpart, because of its relatively stronger economic position. While executive powers in both Germany and Italy had differing amounts of power and control over their populations, and their police forces, they had much in common when it came to Gypsies. They were frustrated by their efforts to control them through the police, and increasingly came to try to skirt the mechanisms of law to find a solution.

In both Italy and Germany, understanding the decision to place Gypsies in the “state of exception” requires a glimpse into executive politics at the national, regional, and local levels. The national officials in Italy who had the most to do with anti-Gypsy policies were interior ministry officials, up to and including the interior minister himself. Most of the policy making and enforcement, however, was entrusted to the Director of Public Security, a post created immediately following the unification of Italy in 1861. The prefects were the most powerful regional officials to directly represent the central government. The Prefect not only kept order in his region, but was supposed to hinder political obstructionism on the part of the elites.⁹ In practice, the prefects often found themselves sandwiched between national authorities, who appointed them, and the power of the local administration, in particular the local mayors (*sindaci*).¹⁰

The other official directly responsible for Gypsy control was the *questore*, who headed the local branches of the police (including the public security forces and the *carabinieri*). The *questore* was a type of police magistrate who was responsible for quotidian enforcement of law and order matters. Like the prefects, the *questori* were powerful, and enjoyed an expansion of their powers throughout the second half of the 19th century. Like the prefects, they could clash with the civil administration, and in particular, mayors and local councilors. They also had the power to issue admonitions to the migrant lower classes, with the permission of the local *pretore* who was the most junior civil magistrate. Admonitions were a caution issued by the police or the *questore* to “suspect persons,” and in the particular case of “idlers” and vagabonds, the police were not even required to inform the lower magistrate in advance. The admonitions stated that the person had to find work and a place to live within a certain period of time, under threat of arrest and prosecution for failure to abide by the terms set forth in the document. People issued admonitions had no recourse to a legal defense. Given the tough economic conditions prevailing in Italy during the period before World War I, particularly for the lower classes, these admonitions provided an easy way to throw undesirables in jail.¹¹

While the prefects and the *questori* had responsibilities that tended to be regional in scope, including several towns and a major urban area within their jurisdiction, mayors were in charge of a single town or city, and often directly dealt with Gypsies who were passing through. Mayors were not elected until 1888, and even then only in towns of over 10,000 people, otherwise they were nominated by royal decree, usually with the help of the prefect. The same reform that allowed for these elections also made the elected local mayors responsible to the prefect and two other nominees of the interior ministry, a clear illustration of both the democratic shift accompanying the development of the modern bureaucratic state, but also a shift in bureaucratic power away from the local and toward the national.¹² Before 1888, mayors were often drawn from the local notables and were entrenched in local patronage systems.

The main police forces responsible for dealing with Gypsies were the *Corpo delle Guardie di Pubblica Sicurezza*, the public security police, founded in 1852 by the Piedmontese monarchy, and the *carabinieri*, a military police force. The public security force was transformed into a department of the interior ministry in 1861 after the unification of Italy (*Direzione Generale di Pubblica Sicurezza*). The department was responsible for both the *Guardie di Pubblica Sicurezza* and the *carabinieri*. The *carabinieri* were closely modeled on French gendarmes. They often competed for power and influence with the *Guardia della Pubblica Sicurezza* (PS), who were charged with guaranteeing public safety. The *carabinieri* and the public security guards earned a reputation for "rough handling." Following unification, the *carabinieri* "became a symbol of the state on the ground, enforcing the state's laws and regulations, protecting the inhabitants on the state's behalf, and sometimes even taking the complaints of the disenfranchised to a higher authority. But the paternalist role was commonly clouded by the popular hostile perception of the corps as, first and foremost, an instrument of repression."¹³ The *carabinieri* and PS were also not particularly well educated or motivated to perform their jobs. The PS was a relatively small organization that only reached 10,000 members during the Giolitti era. The *carabinieri* were a much larger force, but were chronically underpaid and thus motivated to work for their own material gain in their dealings with the public, making them hated not only by the poorer classes, but those with more wealth to defend.¹⁴

In 1880, the department of public security was split into three divisions, the administrative police (*polizia amministrativa*), criminal police (*polizia giudiziaria*), and the secret police (*divisione affari riservati*). The criminal police, which included both the public security guards and the

carabinieri, was the arm dealing directly with Gypsies. In 1890, the public security guards were merged with the municipal guards to form the *Corpo delle Guardie di Città*, the local city police.

In Germany, as in Italy, Gypsy control fell mainly in the hands of the executive powers, but primarily authorities on the regional level, including the individual states, and on a local level, by agencies responsible to the state government. Only rarely did the interior minister of Germany interfere with the regional Gypsy policies, and when he did, it was to encourage better cooperation and enforcement and reject the suggestion of a legislative solution to the problem. However, while German policing was less centralized than Italy in this period, it was still distinctly more centralized than, for example, England. German policing was a broad undertaking, as in Italy, and police were involved with a wide variety of welfare tasks, and the relationship between local and central authorities was more authoritarian in nature.¹⁵

Each of the regional governments was subdivided into administrative areas: Bavaria had seven before World War I and Prussia had eleven, and each administrative district had its own government structures that mirrored the larger regional organization. The administrative districts were the local representatives of the regional government, and communicated with the interior ministry of the state.¹⁶ In general, this structure supported the expansion of bureaucratic power characteristic of the modern period. Throughout the *Kaiserreich*, there was a good deal of competition between the Prussian government and the Reich government, and with a few exceptions, the Prussian Minister President also served as the Reich Chancellor. In terms of anti-Gypsy policy, Prussian thinking and “national” thinking were very much in step with one another.

The individual states thus had jurisdiction over Gypsy policing in the form of gendarmes and the *Landespolizei*. The gendarmes represented, like the Italian *carabinieri*, “state power and state violence” and used their strength against Gypsies in the late 19th and early 20th centuries.¹⁷ The Bavarian gendarme force was formed in 1812, but suffered from constant underfunding. Other German states formed similar corps, including Baden in 1829, Württemberg (the *Landjäger-korps*), and Prussia in 1812. The German gendarmes, like the *carabinieri* in Italy, were limited mainly because of financial considerations. Local officials could count on only one or maybe two gendarmes for a large swathe of countryside.¹⁸ Before 1848, gendarmes in Germany focused mainly on vagrancy control, arresting beggars or petty repeat criminals, so naturally they encountered a large number of those persons who would come

to be labeled “Gypsies” by the late 19th and early 20th centuries. Local officials tended to count on them more than their local police forces to resolve disorder. By the second half of the 19th century, the German gendarmes’ functions had expanded to include keeping order among industrial workers, but they never ceased to be one of the primary state weapons against “undesirables” like Gypsies.¹⁹

The German *Landespolizei* was a separate police force maintained by the individual states, but it was not a military police force, as the gendarmes were. They were directly subordinate to the *Land* interior ministry, and were divided into regional administrative districts, which in turn were subdivided into district police headquarters. In Bavaria, the Munich district police headquarters (*Polizeidirektion*) was responsible for the enforcement of anti-Gypsy policy: in fact, during the period leading up to World War I, Munich considered itself to be a center for Reich initiatives regarding the Gypsies. The *Landespolizei* was critical to the implementation of Gypsy policy because it alone had the power to place Gypsies into work houses, which authorities touted as an excellent deterrent.

There were thus three levels of executive power that played a role in the creation and implementation of anti-Gypsy policy in Germany and Italy. Throughout this book “national” is used to refer to the interior ministry officials in Berlin and Rome, “regional” refers to the prefects throughout Italy and the *Land* interior ministries in Germany, and “local” refers to lower level officials responsible to the regional officials, including the Italian mayors, or the German *Regierungspräsidenten*, the heads of the administrative districts in the *Länder*. The police served as the glue binding executive officials to the targeted population, the Gypsies. They exercised the prerogative power which served to criminalize the population and place them outside of the national community. The criminalization of Gypsies was a key step in creating a dominant view of Gypsies as *homines sacri*, in the sense that their “bare life” came to be viewed as less worthy because of their intrinsic criminality. Criminalization, in the sense I discuss it here, did not necessarily imply conviction or incarceration (the courts were required for that, and proved to be a complicating factor), but instead arrest and prosecution. Criminalization was a top-down process in which executive authorities and the police in their service designated the Gypsy population as criminal, while simultaneously making them more “legible” to state authorities by creating arrest records and collecting data. The police forces’ broad willingness to participate in the arrest and detention of Gypsies allowed executive authorities to come up with a series

of “solutions” to the Gypsy problem, and these solutions increasingly operated outside of the law that police were supposed to enforce, in a space of exception where law became superfluous.

The Italian Police

Cesare Lombroso’s positivist criminological analysis of the Gypsies at the beginning of the 20th century gave a broad outline of both German and Italian police forces’ views of the Gypsies as a race of incurable criminals. At the same time, however, the Italian police, like the interior ministry officials to whom they were directly responsible, had little use for the term *zingari* in official discourse, since there was no formal legislation regulating them as a group. The fundamental tension between a liberal universalist ideal of equality before the law and a police force schooled in positivist criminology was thus patently obvious. Susan Ashley argues that positivism had a strong effect on Italian liberalism. It allowed for executive authorities to more easily justify their repressive and authoritarian attitudes towards criminality and public order.²⁰

In the period before 1889, which marked the introduction of the revised penal code (*codice Zanardelli*), “Gypsies” often appeared in official police documents as *oziosi* or *vagabondi*. *Oziosi*, or “idlers” according to the Albertine legal code (for Piedmont, and later adopted for the unified Italy), were “healthy and robust” persons without gainful occupation that had no outside means of sustenance. Vagabonds possessed similar characteristics, with the addition that they did not have a fixed domicile – making it a perfect legal category for the prosecution of Gypsies. The penal code of 1865 inflicted penalties from three to six months of prison for idlers and vagabonds, but only after such people had been formally “admonished” to abandon their lifestyle by a local magistrate.²¹ This was a fairly simple way for police forces to arrest and detain people who either they or local people might refer to as Gypsies in police reports (as well as other migrant poor).

Around the turn of the century, the growing liberal political consciousness, the expansion of democracy, and the rising political left made the prosecution of the poor or unemployed less acceptable, and thus the 1889 penal code eliminated criminal penalties for idlers and vagabonds. Flavio Verona argues that the new penal code and public security law of 1889 constituted an “intermediary position, between authoritarianism and liberal guarantees.”²² In order to compensate for their loss of the criminal penalties, executive authorities and the police began to turn to other methods *within* the juridical order to criminalize

Gypsies. In official documents, there was a terminology shift: Gypsies were identified as *girovaghi* (itinerants), or by their chosen professions – for example, *saltimbanco* (acrobat), *calderaio* (coppersmith), *suonatore*, or *mercaijo ambulante* (traveling musician or peddler).

On a more substantive level, police reinforced and strengthened the view of Gypsies as incurable criminals by arresting them for petty crimes, usually against property. Arrests usually followed a complaint by local inhabitants concerning their presence, or after a rash of unexplained thefts in a town where Gypsies were staying.²³ For example, in 1872, *carabinieri* in Cassine reported to the magistrate that during a single night, three different individuals had been robbed in the area. After they had inconclusively “conducted their investigation” into the crimes, they heard via the *voce pubblica* (public opinion) that a young man (Domenico Magrini) had been traveling around the town with a hand organ and going from house to house “begging for food and drink, and committing insolent acts” and that he had acted particularly provocatively at the house of one of the victims of the robbery, which he had entered on the pretext of viewing an organ, but, as the police stated, “with the intent to explore the house for later crimes.” Magrini was arrested on suspicion of the robberies, placed in police custody, and tried nearly a year later. The police arrested him even though the farmer he had stayed with the night of the robbery told the police that he had not left, since his guard dog would have barked if anyone had left the premises. Moreover, the town where the robberies were committed was about an hour from the farmer’s house, and one of the victims claimed that there were three robbers (Magrini had been traveling alone). Several of the townspeople and the police identified Magrini as a Gypsy.²⁴ Since Magrini, who the residents identified as a Gypsy, happened to be in the town, he was the immediate suspect for the thefts that had taken place nearby. The police detained him, in the face of exculpatory evidence, because, as a Gypsy, he happened to be in the wrong place at the wrong time. The police acted as a “protector” for the local populace in this instance, as they worked simultaneously to criminalize and marginalize Gypsies.

In a similar example from 1896, a group of “itinerants” was arrested for the theft of some hay and chickens at a farm adjacent to where they had camped. The *carabinieri*, again informed via the *voce pubblica*, arrested three women who had been begging at the farmhouse the day before. In more than one case of chicken theft, the evidence used against the Gypsies under arrest was the identification of feathers found on or around the Gypsies’ belongings.²⁵ The entire group of *girovaghi*, not just

the three women, was arrested and charged with the crimes based on the owner's identification of chicken feathers in their possession. Arbitrary arrests and prosecutions like these by the police forces in Italy demonstrate the circular logic of criminalization: because Gypsies were viewed by police and the local populace as "born criminals," they were automatically suspected by the police for unexplained crimes, and prosecuted, which in turn reinforced the idea that Gypsies were born criminals. The police forces' willingness to arrest and detain Gypsies on the flimsiest of pretenses was a key component of categorizing them as a group unworthy of the protection of the state.

The process of categorization and criminalization of Gypsies, which was a decisive step in creating a "state of exception" for them, was intimately connected with the growing powers of the police and the bureaucratic state before World War I. An unclear image of the Gypsies as "born criminals" was created and reinforced by the police, and the confused nature of that image made police inefficacy vis-à-vis the Gypsies more likely, because both the public and the police were never quite sure exactly whom they were targeting. Over time, police forces employed increasingly high levels of violence against the Gypsies, exercising prerogative power on the "bare life" of Gypsy individuals with little regard for the legal norms of the bureaucratic state. In Italy, the lack of involvement of the legislative powers in the regulation of police behaviors towards Gypsies and the lack of specificity in the directions executive authorities gave to the police confronted by Gypsies meant that the process of criminalization waxed and waned depending on the level of executive concern, which was in turn largely dependent on pressures exerted on the government by legislators or the public. Despite efforts to define Gypsies, police demonstrated that they were not working with any clear image of what the category "Gypsy" entailed, and this confusion allowed for certain individuals to elude classification as Gypsies and join the Italian national community, albeit usually as part of the underclass.

A Fuzzy Image of the "Gypsy"

The image of Gypsies in police records from Alessandria and Rome reveals certain common elements: a focus on language, the behavior of women, physical appearance (skin color, clothing), national origin, profession, and family structure. Pre-unification police instructions from Piedmont (1831) illustrate the early 19th-century image of Gypsies: they were grouped together with the *oziosi*, *vagabondi*, beggars, the

destitute without a profession or job, traveling merchants, and other “dangerous persons” and they were seen to pose a threat to “society” and to “public health.” Gypsies living in Piedmont were referred to as “so-called” Gypsies, alluding to the pre-unification roots of the idea that Italians could not be Gypsies. They were forbidden to move around at all, even within their “home province,” and the *carabinieri* and police were ordered to employ “special care” to arrest the jobless destitute, the “so-called” Gypsies, and the beggars whom they found outside of their home territory, whether or not they possessed valid identification papers.²⁶ The Piedmontese police already saw Gypsies as either charlatans or criminals in need of repressive control. However, they were not necessarily treated differently than other indigent people.

After unification, however, differentiating Gypsies from the rest of the indigent population became more important as executive authorities sought to keep Gypsies out of the new national community. In a huge case spanning crimes committed over several years and involving multiple defendants, the Alessandria police grappled with differentiating the image of the Gypsy from that of the common criminal. The case of Giuseppe Marini and his extended family and criminal “network” from the 1860s reveals some aspects of how police sought to categorize Gypsies. In the official judicial record of the case from 1861, only Teresa Bianchi’s name has *zingara* written next to it, while others had labels like traveling or itinerant merchant. During a police interrogation of Bianchi (before her death in prison in 1861), they asked her if she was “from a family of *zingari* and if the profession of *zingara* was not her primary occupation,” and she responded: “sometimes we were with some families of *zingari* and traveled with them, but I never practiced that profession.” In the eyes of the police, what exactly differentiated her from the rest of her companions?

The first characteristic that set her apart was her lifestyle, which the police emphasized in their interrogations of witnesses and official descriptions of the arrest of Bianchi and her husband, Pietro Musso. According to the Turin PS officials, Musso and Bianchi had arrived in 1859 with the “pretense” of practicing the profession of traveling merchant, and they were “wandering” from city to city and province to province, associating with a so-called Maurizio Gros, a “mysterious” and “suspect” person. The public security forces had been tracking their movement and behavior, but were unable to catch them in illegal behavior, despite the fact that a “rash of thefts” had accompanied their arrival in the city. The couple was reported to have a “disorderly” life, renting a house where there were allegedly wild “orgies” and parties. Finally, the

public security officers caught Musso and Bianchi during the commission of an illegal act: the purchase of a pistol that was supposedly larger than the legal size (an erroneous allegation).

The arrest of Musso and Bianchi is illustrative of the process of criminalization of Gypsies. The arrest and prosecution of those targeted as Gypsies often occurred on petty legal charges. In this case, the original grounds for arrest eventually proved illegitimate, but the police were able to hold on to the suspects for other charges that they had researched during the initial detention. While they were in custody, police connected Bianchi and Musso to the larger criminal band headed by Giuseppe Marini. However, following the initial arrest, the police did not differentiate between the professions of Bianchi and Musso.

Another marker that the police used to separate out certain elements of the migrant poor, including Gypsies, was language. During the interviews of Gros, Bianchi, and Musso, they were repeatedly asked by the police what language they spoke to each other: French or Piedmontese (local dialect), and discrepancies emerged in their stories. Conversations in French would mean that the suspects were “foreign,” while conversations in Piedmontese would be an indicator of belonging. When the police interrogated another alleged co-conspirator in the case, Andrea Mussa, he explained how Marini, the head of the supposed criminal gang Bianchi was associated with, used language to assert dominance within the prison walls, frightening co-conspirators into not talking about him, and continuing to communicate with his family. He stated that Marini was “familiar with the slang [*gergo*] used by traveling merchants and Gypsies which helps him in his clandestine undertakings.” People came to the jailhouse windows and he conversed with them in *gergo*, so the guards did not understand.²⁷

The police focus on a particular “slang” spoken by traveling merchants and Gypsies was fairly consistent over time. In another case from Turin from 1908, the jail guards wrote a report to their superior officers explaining that an unknown woman had come to the jail and spoken to Antonio DeGlaudi, but that the guard had not been able to understand what they had said to each other, since it was not in a dialect familiar to him. DeGlaudi was officially labeled as a “*girovago*” by the police, but as a Gypsy by the witnesses they interviewed.²⁸ Thus, the use of a “foreign” language – either another dialect or some kind of “slang” – revealed at least one part of what might make up the image of a Gypsy in the eyes of the police, but it still was insufficient to differentiate them from traveling merchants and *girovaghi*.

In the Bianchi case, birth place and national identity was a third determining factor that police used to differentiate Bianchi and her associate Gros/LaForet from the rest of her companions. After researching Bianchi, the police learned that the surname "Bianco" belonged to a family of Gypsies from the Vercelli region, and that Musso had associated himself with her because he was an "idler" and a vagabond. Intensive police research had also revealed that their traveling companion, Maurizio Gros, was a member of the LaForet family from Switzerland. The chief of police (*questore*) in Turin reported to the courts that

The Laforet name is also the same as that of a family of Gypsies who have resided at the border with Brandizzo, known to be ruffians, and the individual in question could very well be a worthy offshoot, and in that case, if one takes account of the type of freemasonry which exists among that type of people, it will be impossible to ascertain his relationship with Bianchi Teresa, also a Gypsy...²⁹

The police behavior in this case revealed the confused nature of relations between the police and those labeled as Gypsies. Gros/LaForet and Bianchi were mixed up in a larger story about the itinerant poor and delinquency, and certainly could have been arrested and prosecuted on those grounds, especially considering that "idleness" and vagabondage were still prosecutable crimes in 1860. Yet, the police set them apart from the usual categories allotted to idlers and vagabonds, and associated them with foreigners as well. Despite the fact that there was no juridical value in identifying Bianchi and Gros/Laforet as Gypsies, it nonetheless seemed important to the police to categorize them as such. Establishing the category of Gypsy meant establishing guilt before establishing a crime: Gypsies were "known ruffians" and guilty of a sinister freemasonry – the knowledge of one's Gypsy status meant that the police could be confident in arresting those labeled as such and justified in their subsequent harsh treatment. The police focus on language and national origin for Gypsies also contributed to the image that painted all Gypsies as somehow "foreign." Even when people labeled as Gypsies were born in Italy, they were still somehow "foreign" to the national body by their customs of dress, speech, or way of life.

The Bianchi case revealed that, at times, police found it important to differentiate Italians from Gypsies, but that the lines they drew between the two groups were arbitrary and tended to change frequently. Italian-born Gypsies thus moved in and out of the category "Gypsy," and

revealed the tensions with an emergent bureaucratic state. The “universal” individual clashed with the image of the Gypsy as the eternal outsider. The police, who exercised prerogative power over the people within the national borders, made the arbitrary decision whether or not to include individuals within the category of Gypsy, and to submit them to differential treatment upon that basis. In practice, they sometimes ignored the opportunity to apply the label of Gypsy in the face of evidence that an individual was Italian born. Several examples from Alessandria at the turn of the century demonstrate the uneasy status of “Italian” Gypsies, and how a single family could move rapidly in and out of “Gypsy” status.

In an 1896 case, an entire family traveling together was arrested and tried for the theft of two hens and hay with the aggravating circumstance of operating in a “union of three or more people.” In the arrest report, the *carabinieri* identified the group as a “company of wanderers [*girovaghi*]” and then in other places as “vagabonds.” The family names of the group either correspond to Sinti groups still living in Turin’s nomad camps (*campi nomadi*) today (Colombi, Lafleur, DeGlaudi) or surnames associated with Gypsies in archival materials stemming from Rome, Alessandria, and Turin (Grisetti).³⁰ The *carabinieri* reported that the wanderers accepted hospitality from a farmer and were offered some wood to build a fire. According to the police, “in recompense, those vagabonds, not yet satisfied by the favors they had received, and instinctually leaving bad memories in the places they stop, went into the barn during the night and using a ladder, they robbed a quantity of hay (medicinal herb) worth approximately four lira.” Police research revealed that all the members of the group were actually Italian, born in “passing” or “accidentally” in various communities according to the records. None of the witnesses or the police in the case identified them as Gypsies, however.³¹ The discursive images created by the police match those used to describe Gypsies almost entirely, except for the fact that they were Italian-born, presumably communicating without accents and in Piedmontese. The lines between the image of the *girovago*, *vagabondo*, and the *zingaro* were fuzzy indeed for the police, and in a case where the arrested were all verifiably Italian-born, it made no sense to use the label *zingaro*, since that would imply foreignness, which in turn would mean expulsion by the PS forces: a difficult task when dealing with persons who claimed Italian nationality. In the great flux accompanying the foundation of the nation-state, it was not always clear who should be considered as part of the community and who should not, and the police had the task of deciding that status for Gypsies and other

members of the poorer classes. Police forces were engaged in a project of criminalizing many of those people, but special status was accorded to Gypsies because of their “foreignness” and classification as “dangerous foreigners” marked for expulsion under the public security law.

One of the above families, the Grisettis, along with other families who were labeled as Gypsies in other Alessandria court records, the Lucchesis and Degli Innocentis, reappear in a case from 1909, accused of stealing some farm tools from a shed in a field.³² The *carabinieri* took the report of the theft from the farmer, who said that he had seen two “boys, who looked like vagabonds” break into the shed, and he chased them down and they gave him back what they had stolen. The farmer told the *carabinieri* that upon his return, he realized that they had not returned a tool worth one lira, and he went in search of them with a neighbor. The police reported that the neighbor “surprised them among a caravan of Gypsies, sitting on top of a wagon, driven by Medardo Grisetti.” The *carabinieri* then chased down the Gypsies but could not find the thieves among them. All of the Gypsies had regular papers identifying them as Italian-born musicians, jugglers, and singers. The *carabinieri* proceeded to search the caravan for the missing implement, which they did not find, but they discovered that two of the children listed on the identity documents were missing (a boy and a girl), which raised their suspicions. Elsewhere, they referred to the group as a “nomadic company.”³³ Compared to the first case involving the Grisettis, which seems very similar, it is hard to tell why the *carabinieri* labeled this group as Gypsies, while in the first case, the group was labeled as *girovaghi* and vagabonds. One particular reason could be that the first group was actually from Piedmont, while the second group was from another region in Italy. Particularly in the 19th and early 20th centuries, Italians were fairly strict about delineating both internal and external outsiders: foreigners from abroad were designated as *stranieri*, but foreigners from within were designated as *forestieri*. This group was *forestieri*, and the label of *zingari* made some sense. The case also illustrates the way in which identity documents were often effectively used by Gypsies as a tool of protection against the legibility projects of the state. It was more difficult for the Italian police to investigate and expel those Gypsies who had legal documentation of their status.

In a similar case, Medardo Grisetti (not the same person) was sought by the police after he stabbed a farmer at his home. Only one official document refers to Grisetti as a *zingaro*: in his sentence from 1912, in which he is initially referred to as a *girovago* “without a fixed residence,” he was later referred to as a “traveling merchant, a *zingaro*

girovago." Each of the witnesses in the case refers to him as a *zingaro*. The *carabinieri* never refer to him as such, instead using the term "traveling merchant without a fixed residence."³⁴ In these cases, there seems to be little practical distinction between Italian *girovaghi* and Gypsies by the police even as late as 1909. The images were similar, and the suspicion immediately aroused by the groups themselves seems somewhat undifferentiated. The consequences, however, of what seems like such arbitrary language and categorization were great: *girovaghi* served their sentence if convicted and then were freed (albeit usually under the surveillance of public security forces), but Gypsies were turned over to the public security forces for expulsion. Gypsies were criminalized by the police forces in much the same way as other groups of itinerants, but the fact of their labeling as Gypsies subjected them to a different fate than those who were deemed to be part of the national community. The additional layer of separation created a group identity for Gypsies, and made them a target of executive policy. The "groupness" later served as the basis for creating a state of exception for Gypsies.³⁵

Women labeled as Gypsies by the police consistently had two unique elements associated with them, in addition to those described above: sexual license and complete subservience to Gypsy men. The police nearly always presumed that Gypsy women were guilty of sexual licentiousness. Since the state only recognized civil marriage, official police documents characterized most female Gypsies as "concubines" or prostitutes, or, more mildly, "married but not legally" and their children therefore were categorized as bastards, making the establishment of nationality more difficult, since Italian law established nationality through the legal father. In the case of Teresa Bianchi, the police associated her and her husband with nightly "orgies" and accused her of not being legally married to Pietro Musso.

Another woman involved in the Marini case, Teresa Arietta Marengo, eventually agreed to confess her involvement in various thefts to the police. Her self-representation during the police interview reveals the second element of powerlessness, as well as hinting at how female Gypsies used their status in a male-dominated society as a form of resistance:

I was born an orphan in Casale in 1832. As far as I know I was taken from that foundling hospital when I was still a baby, fed and educated by an old family of *zingari* who had moved from Modena to Piedmont, where they were itinerant merchants.

I grew up like animals generally do, in a unique way but without any notions of religion or morality, of property or family.

My actions therefore never had any motivations outside of material sensations, and I responded based on instincts, rather than feelings or reason.

I was married in 1848 in Bolzola to Giacomo Marengo, he too was an errant merchant.

In the nomadic tribe to which Marengo and I belonged, he had not yet earned fame as an avaricious person, in fact he was gifted with agility, robust muscles, and a readiness of spirit.

We passed the first months of our marriage, commonly referred to as the honeymoon, engaged in hard work and we led irreproachable lives.

Perhaps it was love, perhaps it was the friendship between us that made our feelings more proper, put a brake on our dishonest tendencies, and created in us the desire to live as simple, poor, hardworking, and honest people rather than against the norms of property and the economy.

But our attempt could not last! The profession of itinerant merchant, free as it is in our country, is simply not reconcilable with honest citizenship... the contact with these people infects you, and the leprosy of thievery with which those no-gooders were infected clutched us and here is how...³⁶

Marengo proceeded to elucidate her knowledge of the crimes attributed to her husband. The poetic nature of her autobiographical sketch certainly was striking, and I cannot be sure if it could have been the work of an overly creative police transcriptionist, but Marengo clearly showed an awareness of the police image of the Gypsy, and attempted to play on that to gain sympathy. She used language specifically linking Gypsies to dirt and disease, and called the band a "nomadic tribe." She herself denied being a Gypsy, however, in order to deflect blame and make herself the "victim" of the bad Gypsies. Like James Scott explains in *The Art of Not Being Governed*, Marengo is "cagey" about who she is and where she comes from as a way to resist legibility by the police.³⁷ Marengo tried to distance herself from the category of the Gypsies while simultaneously evoking sympathy as a woman and helpless victim of circumstance. In addition, her biographically obtuse tale

that would prove difficult to verify was a way for her to attempt to get away with a lenient punishment, since she had not “been caught red-handed.”³⁸ Female Gypsies used the images associated with their womanhood to evoke sympathy from the police and distract them from the image of the Gypsy woman as an oversexed temptress. It was a struggle between competing images that women who were labeled as Gypsies often exploited.

Fuzzy Images – Ineffective Policing

The ambiguity of the police image of Gypsies frustrated executive level officials on the regional and national level, since they often felt as if their directives were ignored or shoddily implemented by police forces. As early as 1872, the government, headed by Giovanni Lanza, was communicating with the prefects of unified Italy about Gypsies, encouraging police forces to be certain to prevent them from entering the kingdom. In 1879, the interior minister Depretis again wrote to the prefects, complaining that his earlier orders were not being carried out because of lax security at the borders, and he emphasized the importance of controlling the population: “in reality they live, as was stated already in the circular from 16 August 1872, from begging, swindling, and theft, and are always bothersome and dangerous.” He asked the prefects to expel, under the public security law, any Gypsies who got past the border guards. Thus, in the eyes of the government, it was the customs guards at the border and the public security forces within the country who were supposed to be dealing with the foreign Gypsy populations (and it was assumed that all Gypsies were foreign).³⁹

In 1908, a public security official from a town near Florence, Samuele Bertoni, wrote a sizable pamphlet about the Gypsies addressed to the department of public security in Rome, and one of the topics he discussed was the issue of police inefficacy. First, he argued, most of the Gypsies traveling around Italy either had legitimizing papers of some kind, or were issued them by the police too easily. Second, they were often mistaken by the police for other groups of *girovaghi*: again, the issue of clearly defining boundaries between “wandering” peoples and Gypsies appeared. Bertoni, like other PS officials, was never precise about what exactly made Gypsies different, but seemed to assume that it would be obvious to his readers. Third, since they were concentrated outside of the major cities, the jurisdiction of the PS guards, Bertoni argued, police forces that were focused on urban policing were often ineffective. Fourth, once police forces had apprehended and arrested groups of

Gypsies, it became difficult for them to determine what to do with the women, children, monkeys, bears, and other goods they might have with them while they were in custody. The high cost of supporting people and goods often led to a release before expulsion proceedings had been completed. Fifth, Gypsies constantly changed their identities, making them difficult for the police to track, and making the decrees of expulsion issued by the public security forces useless – since they often expelled an entire “caravan,” the individual identities of the members of the caravan could change, making the decree invalid. Sixth, according to Bertoni, the Gypsies’ tendency to take advantage of the good faith of officials and their constant lying allowed them to obtain papers from softhearted passport officials or others in the country. He explained the common practice of taking a newborn child to several different churches for baptism, or different civil registry bureaus to obtain papers under several different identities. Finally, he argued that foreign consulate officials also slacked off, issuing identity papers to Gypsies to allow their passage into Italy, particularly in offices along the Adriatic coast, thus making it difficult to expel them once they were in the country. Clearly, by 1908, overburdened and underfunded police forces had not yet fulfilled the government’s decrees of the 1870s and onward, and the Gypsies became a problem that the police forces felt increasing pressure from above to solve. Bertoni’s list of problems highlights the issues with the expansion of state legibility projects: those who might choose to evade such projects, who resisted legibility, had tools at their disposal that could make a rational bureaucracy’s job quite difficult. For Gypsies, “passports and other documents could turn into ‘weapons of the weak’ ... because these documents could protect them against the arbitrary power of local authorities.”⁴⁰

Bertoni suggested that the police could improve the efficacy of their work by making a comprehensive list of all the Gypsies present in the country, not just by name, but also by physical description, and he cited the example of the German “Gypsy book,” published in 1905 (*Zigeunerbuch*). He suggested that each entry should include a list of their arrests as well as their locations and dates, which would have aided in the process of criminalization of Gypsies. He also suggested that expulsions should be reported to a central authority. Young Gypsies, in Bertoni’s analysis, should all be forced to perform their required military service. He also recommended choosing a day and rounding up all the Gypsies in the country, in order to better identify them. The police should expel and accompany to the border all those who were not naturalized, and those who had been naturalized

should be organized into a central card catalogue to better track their whereabouts. He argued for photography of the adults.⁴¹ He also suggested that Gypsies should never under any circumstances be issued documents, and their identity should be as precisely determined as possible.⁴²

Bertoni's pamphlet demonstrates that the response to a "lack of legibility" was often a suggestion to further expand the bureaucratic powers of the state. He also showed that police forces were keeping an eye on international developments and modern policing techniques. However, his list of suggestions would have been nearly impossible to implement because of financial and manpower concerns. Moreover, his assumptions that certain Gypsies might actually be classified as "Italian" revealed the continuing ambiguity of policemen's images of the Gypsies, which were in conflict with the official national position that there were simply no Gypsies who could belong to Italy. The police, who lived the everyday reality of arresting and confronting Gypsies, were confused about the classifications that the interior ministry set out, since they often did not conform to what they actually saw on the ground. The police therefore applied the label of Gypsy with some flexibility. Bertoni's analysis revealed that the process of criminalization of the Gypsies was well underway, but that higher authorities were frustrated with the police's inability to rid the country of this amorphous underclass. Bertoni's solutions also hinted at the willingness of executive level authorities to push the boundaries of legality when it came to Gypsies. Randomly choosing a day to "round up" and detain all Gypsies for identification, regardless of their documentation or criminal status, was a clear violation of the protections of individuals, both foreign and "native," against incursions by the state. However, this approach was not terribly surprising in the context of the growing strength of positivism, with its emphasis on "prevention" of crime through the targeting of problem groups like Gypsies or the poor. The distinction between Gypsies and the itinerant poor was assumed to be clear by executive authorities issuing the directives, but police actions on the ground demonstrated the fallacy of the assumption, as the line between Italian itinerants and foreign Gypsies was quite slim. This nexus of problems for the police, along with their inadequate funding and manpower shortage, increased the frustration of executive authorities who were ultimately responsible for handling complaints about Gypsies. Frustration and public pressure would eventually lead executive authorities to avoid the law altogether when dealing with Gypsies, placing them in a state of exception.

Violence

Evidence that the Gypsies were becoming *homines sacri*, bare lives exposed to the violence of executive power, was apparent in the level of police violence towards Gypsies. For example, a caravan of "Montenegrin Gypsies" arrested in Belluno in 1909 was charged with violence and resistance against the *carabinieri*, but one officer was also charged with shooting a Gypsy woman. At the time of the shooting, there was only one officer stationed in the local *carabinieri* office, Bernardo Renardo. He received a complaint about two thefts which had been committed by a caravan of Gypsies, and showing "proof of laudable initiative," he closed the office, and set off in pursuit on a bicycle. He enlisted the help of eight military men from the local barracks to help him pursue the Gypsies. When they reached the caravan, Renardo proceeded to arrest everyone in the group. At this point, according to the report filed with the general commander of the *carabinieri* in Rome, the Gypsies surrounded Renardo, and the women started to push him around, and the soldiers attempted in vain to separate them. Renardo took out his pistol to try to scare them, which only infuriated them further. It seemed to him that one of the women was searching through her clothes to extract a weapon, at which point he commanded the soldiers to load and fire. The commander of the *carabinieri* force in Rome said that the command to fire was issued "more out of the intention to increase the feeling of intimidation than to create the homicidal effect which it could have produced." However, one of the eight soldiers did in fact fire, killing one of the women. After further reinforcements arrived, the Gypsies were arrested and transported to Belluno, where they underwent trial and were convicted, serving between thirty and fifty days in jail. The policeman was also convicted, but his conviction was appealed to the criminal appeals court, and I was unable to ascertain if the conviction was upheld. The commander of the *carabinieri* was sympathetic, however, emphasizing Renardo's sense of duty and honor in going after the Gypsies, and while he admitted that the young man had made a mistake in issuing the order to fire, he did not see any reason for his conviction.⁴³ And the entire family of the murdered victim went to prison!

The story of Renardo demonstrates the mutual fear with which police and Gypsies regarded one another, the ways in which Gypsies came to be a criminalized population, as well as the arbitrariness of Gypsies' arrest, prosecution, and subsequent expulsion (an order of expulsion was issued for the Gypsies after their jail terms were served). In this

particular case, the individual who reported the crime pre-identified the group as foreign Gypsies, shaping Renardo's approach. It is impossible to know whether the group of Gypsies Renardo chased down and arrested was the same group that had been accused of the crime, since the complaint had only identified "foreign Gypsies" as the culprits. He assumed that the people he arrested were Gypsies, and by virtue of that fact guilty of the crimes of which they were suspected. Thus, any means necessary were usually permissible to attempt to bring them under control. The inadequacy of funding available for the police was also abundantly clear in this situation: *carabinieri* often had to carry out the functions of policing alone – a nearly impossible task. One can imagine the frustration of the police when pressure or dictates from Rome regarding the need to watch and expel Gypsy populations more assiduously arrived without any concomitant increases in funding or manpower.

Italian police were unable to do a satisfactory job of enforcing executive directives regarding Gypsy control. Despite advances in technology, like fingerprinting and photography, the arrest, detention, and expulsion of Gypsies, which were all competencies of the police, proved to be more difficult in practice than on paper. The police served the important function of criminalizing Gypsies with arrests for petty crimes, an important step in separating Gypsies out from the rest of the population. However, the amorphousness of the category of Gypsy led to a continual dissatisfaction on the part of executive authorities with the efficacy of the police's execution of their instructions to expel Gypsies as foreigners. The tension between executive authorities' wishes and the police's ability to make them into reality made solutions that placed Gypsies in a space of exception outside of the law more appealing.

Police in Germany

Leo Lucassen traces the history of the term *Zigeuner* in police usage in Germany and the Netherlands from 1700 to 1945, and argues that the categorization of Gypsies by police in general was a difficult and confusing process for authorities. The category of Gypsy was an objective, not subjective concept, in the sense that Gypsies became the object of police discrimination, but they did not simultaneously feel themselves to be members of a category of Gypsy. Lucassen argues that the creation of "Gypsy" as an *Ordnungsbegriff* (key concept) involved the creation of the category, the imagination of the category, the creation of stigmas, and the application of those stigmas.⁴⁴ As in Italy,

German police were involved with the categorization and stigmatization of Gypsy populations.

Bavaria had one of the most “advanced” and well-coordinated approaches to dealing with Gypsies and competed for dominance in this area with Prussia. In 1899, Alfred Dillmann, the chief of police in Bavaria, founded the *Zigeunerzentrale*, which he eventually hoped would become a central clearinghouse for the Reich. In 1905, under Dillmann’s direction, the *Zigeunerbuch* was published, which claimed to list all of the Gypsies present in Germany, including their aliases, physical descriptions, and nationalities (when known). The book also contained indexes outlining the prevailing regulations for Gypsy control in Bavaria, options for prosecution of Gypsies, photos of selected groups of Gypsies, an alphabetical listing of names, and a list ordered by distinguishing marks. While Bavaria in many ways served as a model for anti-Gypsy policy and policing, Prussia too had a wealth of regulations controlling the movements of Gypsies and relying on police surveillance and arrest tactics. In comparison to Italy, executive authorities made a much more concerted effort to adopt specific and effective anti-Gypsy strategies. Nonetheless, the authorities’ level of frustration with the police forces called into question the efficacy of this more intensive approach.

The (Equally) Fuzzy Image of the Gypsy

German police had a much larger set of regulations to adhere to when it came to their interactions with Gypsies. Executive authorities in Germany issued a number of regulations dealing with foreign and German-born Gypsies, and the main executor of those regulations was supposed to be the police. Despite this profusion of administrative regulations, the dividing line between Gypsies and the rest of the itinerant poor was unclear, making the image of who was a Gypsy amorphous, as it was in Italy.

Lucassen argues that in the years leading up to the unification of Germany, police showed an increasing interest in the problem of the Gypsies, but that they had not yet begun to apply the term broadly. So, for example, simply being a traveling family was not sufficient for the police to apply the label of Gypsy. The police were not so much concerned with the criminalization of Gypsies in those years, argues Lucassen, but more with itinerancy. Even images of the Gypsy as a fortune teller or swindler were not yet present in police discourse. Thus, police were dealing with a relatively limited number of persons before

unification.⁴⁵ By the time of unification, however, the positivist image of Gypsies as “irredeemable criminals” had gained a toehold, and became one of the most important pieces of the image of the Gypsy. As in Italy, the criminalization of Gypsies was a vicious circle: because the police viewed the Gypsies as inherently criminal, they were sought after for the commission of crimes more frequently, and their arrest and prosecution reinforced the image of Gypsies as criminals, which led to more arrests of Gypsies.

After the founding of the Reich, a split grew between national and regional authorities, who often viewed Gypsies as intrinsically foreign, and police, who applied the label much more broadly, and included German-born individuals.⁴⁶ Gypsies were divided into two distinct groups: “native” German Gypsies and “foreign” Gypsies. In Italy, the concept of “native” Gypsies did not exist, which set the two nation-states apart in terms of Gypsy control. The methods for dealing with foreign Gypsies were almost identical to the Italian methods: arrest, prosecution, and expulsion over the border. Methods for dealing with “German” Gypsies differed, and demonstrated a conflict between the exigencies of citizenship law in a newly unified country adhering to the rule of law and its universal applicability, and the desire to root out and “cleanse” the national body of undesirables.

Lucassen asserts that the split between state authorities and police was resolved around the turn of the century in favor of the police. State authorities become increasingly worried about German-born Gypsies, and began to develop policies targeting the German-born Gypsy population.⁴⁷ The goal of this shift in the image of the Gypsy was often to “de-Germanize” the Gypsies, which made the arrest, detainment, and expulsion of this group easier, and further reinforced the pattern of criminalization of the Gypsies.

Early in 1871, the Bavarian interior ministry sent around a circular to the police and local authorities reminding them that they must expel any Gypsies without definitive proof of their nationality and residency (*Staatsangehörigkeit und Heimat*), and that any licensing for traveling shows, peddling, and like occupations should be strongly limited within the confines of the law.⁴⁸ Residency had been a concern since the 18th-century changes in welfare law, so that instruction was not surprising. However, the directive did not automatically assume the criminality of the Gypsy – in other words, it was still possible for Gypsies to exercise a legal profession. While the underlying assumption was, in fact, that most Gypsies would be unable to legitimate themselves when in confrontation with the police, the government was as

yet unwilling to abandon the strictures of the rational bureaucratic state to prosecute Gypsies. The discomfort with working around the rule of law lessened in the period leading up to World War I, as executive authorities grew impatient with what they viewed as police inefficacy. In another communication to the district and town police (*Distrikts- und Ortspolizeibehörde*) from 1885, the Bavarian interior ministry showed its hardening stance towards Gypsies as well as “people who lived like Gypsies,” a phrase again indicating, as in Italy, the degree of uncertainty regarding exactly who was a Gypsy, even as myriad regulations were being put into effect. The document argued that Gypsies (both German-born and foreign) should not be allowed into Bavaria at all, meaning that police, particularly those bordering other German states and foreign countries, had to become more vigilant. Bavarian regional authorities, as Lucassen argues, clearly saw Gypsies as intrinsically “foreign,” even if, as in Italy, that just meant that they were born in another region of the nation-state. In the Bavarian directive, police and the courts were supposed to prosecute any petty crime possible for Gypsies legally present (not just begging or vagabondage), while sending the men to the work house as often as possible. Welfare authorities were to take the children away and send them to educational facilities or orphanages. Veterinary police were supposed to examine all horses for disease and confiscate the sick ones. The Gypsies’ property was to be confiscated in order to pay for all these procedures and authorities were forbidden to issue licenses for traveling trades to Gypsies altogether. The goal, according to the Ministry, was to “cleanse” (*säubern*) the state of the Gypsy “nuisance,” without, however, spending too much money.⁴⁹

Thus, the image of the Gypsy that the police were instructed to utilize still left room for the occasional and exceptional legal Gypsy, but the overriding approach was to assume that each Gypsy was a fraud and a criminal until proven otherwise. However, as in Italy, police forces were always limited by their finances: Gypsy control was important, but within strict budgetary constraints. The police were supposed to work to criminalize Gypsy populations, which they effectively did, but again, as in Italy, the lack of a clear definition of exactly who was a Gypsy confused the authorities. In Germany, however, this problem was resolved by offering a broader, general category of “those who move around like Gypsies” as the baseline for discriminatory behavior. On a practical level, police in Germany and Italy were targeting people who fit their mental image of a Gypsy, which was, at best, vague, but in Germany, the vagueness of the image was codified in administrative regulations acknowledging that very amorphousness.

In 1905, the *Zigeunerbuch* offered the dominant police image of the Gypsy:

Under “Gypsy,” one understands, in a strict sense, a wandering people who penetrated Europe in the 9th century and from there spread out through the other areas of the world. They entered Germany in the 15th century. As an independent “people” [“Volk”], the Gypsies have long since ceased to exist, even though in some European lands (namely Hungary, Romania, and in the French and Spanish Pyrenees) numerous tribes are still resident.

The “Gypsies” with whom we in Bavaria and its neighboring states are dealing, come partially from mixing of genuine Gypsies with natives long ago, and part have emerged from our own, i.e., central European land (autochthonous).

Racially pure Gypsies are seldom found among us.⁵⁰

Dillmann then described the typical professions practiced by Gypsies, their usual “tricks” to avoid prosecution, the continued problems the police were having controlling the populations because of these tricks, and the fear of the general populace, in a very similar approach to that taken by Bertoni, the public security official from Florence. Some of the people entered in the book were not “Gypsies” but “acted” like them, and those individuals were noted as such. The image of the Gypsy here, despite its attempt at historical specificity, was no clearer than the Italian image. Race, profession, and itinerancy all figured into Dillmann’s description, but no characteristic was definitive, and behavior alone was enough to warrant treatment as a Gypsy. The police were supposed to determine who was a Gypsy, but never did so to the satisfaction of the executive authorities superior to them. The police in Germany, as in Italy, were never sure who to treat as a Gypsy, particularly since many of the people they would have encountered looked and acted like other Germans.

Police Inefficacy

Executive authorities were frustrated with what they viewed as police inadequacy in the face of a Gypsy problem that had become an increasingly public concern. As in Italy, the perceived inefficacy partly stemmed from the difficulty of the police in sorting out “Gypsies” and “those who moved around like them” from the rest of the mobile poor. In August

of 1882, the gendarme Michael Leib, the commander of the Glonn station, was given a five-day arrest sentence for failing to arrange correct transport of a "band of Gypsies" out of his district.⁵¹ A letter from the police director in Munich from 1884 to the interior ministry (accompanied by the original report from the gendarmerie station) related that a large band of Gypsies had been thrown out of Sendling, and "instructed to leave the Bavarian territory by the most direct route." A somewhat derisive interior ministry official wrote in the margin: "that wasn't very much!" After that, the band pretended to head towards the border, then turned around and was seen in Schwabing a few days later (the same official put a large question mark next to this report – most likely because the police director did not report a resolution).⁵² In another case from 1884, a group of Gypsies arrived in Munich for a horse fair, and were "repeatedly expelled" from the city by the police, and then watched by the gendarmerie in the surrounding countryside. The group had legitimate papers permitting their presence, so the police could not actually take further steps to control them – "weapons of the weak" again. Moreover, the group was relatively wealthy, so prosecution for vagabondage or begging was not a possibility. They also had committed no crimes under the police or gendarme watch. After their arrest, the group of French Gypsies was shrewd enough to hire a lawyer, who gently reminded local officials of the illegality of harassing and deporting people who had legally entered Bavaria and had not committed any crimes. In the German rational bureaucratic state, expelling people simply because they were Gypsies, in violation of universal legal norms, proved to be a difficult task (even though expulsion was still the assumed goal). The police inability to produce the desired outcome (the expulsion of the Gypsies) led to frustration on the part of the executive authorities, who tried to come up with better solutions.

In Bavaria, the police tried to respond to the accusation of inadequacy with the founding of the Munich *Zigeunerzentrale* (Central Office for Gypsies). In 1899, the center was founded by the civilian police chief Alfred Dillmann, whose personal writings demonstrate an interest in Gypsy ethnography of the times, and who, like Bertoni in Tuscany, was convinced that he could "fix" the Gypsy problem through "modern" police science, particularly the use of fingerprinting and photography. The key for Dillmann was "legibility:" if each Gypsy was assigned a point of origin, a name, an age, and a physical description united with their unique and singular fingerprint, the government could then expel the foreigners and confine the Germans to their purported "homeland," creating a sedentary and upstanding population of citizens.

The first report from the director of the Munich police arrived at the interior ministry in January of 1900. Each of the districts sent in their records on Gypsy arrests and prosecutions, and the central office compiled an alphabetical list of names, residency, or foreign nationality, and the location of their arrest. Dillmann's first report from 1900 cited various statistics regarding the number of families and individuals present in Bavaria, and praised the efforts of the government to make expulsion and prosecution easier. In this report, as in most that follow, the police director stated that the "number of Gypsy bands entering are on the decline."⁵³ In a report from two years later, in January of 1902, Dillmann explicitly argued that the new system of tracking had begun to combat the Gypsies' habit of using false names and nationality information. He listed specific examples of families whom the police had caught and successfully expelled. He also listed numbers of Gypsies arrested for crimes (murder, theft, bodily injury, fraud, disturbing the peace, begging, vagabondage) partly by Bavarian authorities, partly by the authorities of other German states.⁵⁴ The police project of the criminalization of Gypsies was proving successful, but the next step of removal from the national community was harder to achieve.

The tasks of the central office for Gypsies in Munich continued to expand, and Dillmann sought to make it the German center for consultation and control of Gypsy populations. In a letter to the Munich interior ministry from 1904, Dillmann again mentioned that his office had "already made significant progress" against the "Gypsy nuisance" but went on to say that their current system was insufficient to "control" the Gypsies. It was a fascinating example of bureaucratic logic: he had done well, but not well enough to justify ending the office's existence; in fact, the office should be expanded. He stated that the police had a problem because they frequently did not obtain complete biographical information for Gypsies in their districts, and instead sent the police director incomplete files based on incomplete or inaccurate papers. He blamed this lack of knowledge, not on the district police commanders, but on the gendarmes, from whom they normally received the information. The lack of information resulted in the police director's office being unable to verify if a particular group was identical with another one detained somewhere else or at a different date. Dillmann proposed that the solution to this problem might be to publish an issue of the central police circular listing the identities and complete descriptions for the Gypsies who had been reported to the Central Office for Gypsies, which eventually (because of the large number of Gypsies reported) grew to become the *Zigeunerbuch*.⁵⁵ Dillmann's increasing concern and growing

frustration with his inability to completely “know” and monitor Gypsy populations in Bavaria mirrored Italian authorities’ growing frustration with the Gypsy problem over time.

Like Samuele Bertoni, the public security official from Italy, German executive officials expressed discontent with the police. As early as 1877, in a meeting of the finance committee of the Bavarian government, the representative Johann Lerzer complained about the security situation in the countryside, particularly regarding “begging, vagabondage and Gypsies.” He blamed the bad performance of the *Ortspolizei* (local town police forces) who were not supporting the countryside police forces (the *Landespolizei*) and lamented that Bavaria could not afford to increase the size of their gendarme force (a similar complaint to those heard in Italy).⁵⁶

In the 1880s, a rash of newspaper coverage in Bavarian market towns concerning Gypsies led the interior ministry to express increasing frustration with the police forces’ ability to control the influx. The interior ministry of Oberbayern passed a resolution in March of 1891 reminding local officials that the Gypsies were not being controlled and expelled by the police forces as they had instructed. They blamed the local police (*Ortspolizei*) and the gendarmes for not doing their jobs. Immediately following this, police director Dillmann published a reminder in the central police circular regarding the rules of police procedure vis-à-vis the Gypsies: getting them to show valid identification, arrest and prosecution for crimes, research into the validity of papers and identity, expulsion over the Bavarian border.⁵⁷ In a letter from Fulda (Prussia) in 1881, Karl Schmidt wrote a letter of complaint to the Prussian interior ministry in the “name of many residents of the city and countryside” in which he pleaded for the police forces, and in particular, the gendarmerie to take a more active role in expelling groups of Gypsies over the Prussian border. He lamented that the poor farmers in the area lived in constant fear of the Gypsies. He stated that when they came around begging, the farmers gave them what they wanted to avoid trouble. During the summer, when the farmers themselves hardly had enough to feed their own cattle, the Gypsies came around and fed their “starving” horses on what little was left. He argued that the local police had too much on their hands to handle this problem adequately, and instead of pursuing poor penniless traveling apprentices, the gendarmes should spend their time expelling the Gypsies.⁵⁸ The letter demonstrated both sides of the modern bureaucratic state: the police unjustly repressed those who were poor through no fault of their own, but yet, could and should serve as a protector

against a group that everyone could universally agree was unwanted, the Gypsies.

By 1906, after several years of considerable effort, the Prussian interior ministry, under growing public pressure, again reminded local officials and the police forces of the proper actions to take against Gypsy populations. A circular, issued on February 17, 1906, was sent to replace previous instructions from 1887, 1889, 1900, and two sets from 1901. The dates reveal a rather consistent level of interest in the “Gypsy nuisance” from the 1880s onward. In the section labeled “police observation of wandering Gypsies,” police forces were warned to watch for crimes committed by the Gypsies, particularly those traveling in large groups, and to arrest them and pass them on for prosecution whenever possible. The ministry charged the *Ortspolizei* with notifying “in the fastest possible way” the district gendarmes and the *Landrat* of the direction that the group was traveling. The instructions were unclear as to whether or not the police were supposed to inform neighboring districts of the Gypsies’ direction, and the ministry said that this should be determined on a case by case basis. The directive charged the gendarmes, particularly those in the countryside, with aiding the local police in arresting Gypsies, detaining them while they awaited trial, transferring them to judicial authorities, and eventually transporting, separating, and dispersing the large bands. The gendarmes’ aid would help not only to pursue all “illegal transactions, but also to minimize public annoyance.” The circular reminded the gendarmes that their regulations stated that they must follow Gypsies until they reached the jurisdiction of the next local police force or gendarme station (effectively never leaving them unguarded).⁵⁹ Again, criminalization of the Gypsies through arrest and prosecution was a key part of the picture for executive authorities, but their inability to specify a set of characteristics for the “Gypsy” made carrying out the arrests and expulsions difficult for police authorities on the ground.

Violence

As in Italy, the frustration the police experienced and the pressure of the executive authorities led to violence between Gypsies and the police. The violence exposed Gypsies’ status as humans less worthy of the state’s protection, and marked their transformation into *homines sacri*. In 1880, there was a sizable exchange of correspondence between the police and the local government regarding an apparent brawl between Gypsies and police at a market in Keferlohe. The case is actually startlingly similar

to the Italian case in Belluno from 1909, in which an officer of the *carabinieri* shot and killed a Gypsy woman. In this case, Michael Hain, a gendarme, responded to a report of an argument involving forty Gypsies at the market. According to the report of the gendarme office, Hain's request for calm was ignored by the group, and they started to attack him with revolvers and rifles. Hain, whose weapon was not loaded initially, took cover, loaded his weapon and then moved against the Gypsies, who began to shoot at him. "As the shots whizzed by his ears" he decided to discharge his weapon and accidentally shot one of the Gypsies in the head, killing him. The gendarme's own account was supported by the town constable, who added details about the involvement of local farmers in the defense of the gendarme (which might explain the escalation of the battle better than the image of a single peaceful gendarme being attacked by forty Gypsies!). Most of the Gypsies involved escaped, and a manhunt ensued. The account remaining in the archives includes almost no physical description of any of the Gypsies, and from the reports of arrests, it seemed as if local police and gendarmes merely rounded up all Gypsies in the area. There was also considerable pressure on the police from regional authorities in Munich to determine the nationality of the Gypsies involved, since regional authorities suspected that police had shirked their duty to keep foreign Gypsies out of Bavaria.⁶⁰ The image of the Gypsies that emerged from this incident was a fearsome one, and similar to other images emerging at the same time: they traveled in large groups and were well-armed, violent and volatile, prone to crime, and a threat to the "common" man, particularly the wives and children of hardworking farmers. Only the roughest and most stringent measures could be employed to put a damper on their fearsome power. Thus, Hain's killing of the Gypsy was excusable, and the employment of state violence against a threat to national security was viewed as necessary. Gypsies were not worthy of equality before the law, like citizens, in the eyes of the police and executive authorities. Their "bare lives" were at the mercy of the prerogative power of the executive authorities.

The case of the Stankovic family aptly illustrates the arbitrary and cruel nature of authorities' treatment of Gypsy populations. A group of entertainers, they were arrested in 1900 in Bavaria. With the family in custody, the police chained their bear to a tree in the middle of a field, and he soon escaped. The police sent the Stankovics to rechain the bear, but he escaped again. They sent the family back again, and the bear inflicted serious injuries on them, landing Stankovic and his son in the hospital. Eventually, the bear was shot by a gendarme on

orders from a local official. The Stankovic family eventually sued for loss of property, but the Munich authorities denied the claim, saying that Stankovic had agreed to the confiscation of his property so that he could return home.⁶¹ Forcing Stankovic to sign over his property in return for his freedom pushed the boundaries of what was permissible within the norms of the bureaucratic state. The family was motivated to save the bear, since it provided their livelihood, but the authorities did not want to care for it, leaving it chained up outdoors in the middle of winter, creating a situation that was dangerous for the family, and stripped them of their only method of making a living.

In 1903, a certain Muzik, a musician (!), and his family were arrested in Bavaria, despite the fact that they possessed valid passports issued in Austria, and that Muzik had been employed in Bavaria as a day laborer, and was in possession of valid receipts from his employer proving that fact. Muzik had committed no crime, and was apparently arrested because he did not possess permission to practice a traveling trade despite the fact that he was not actually engaged in a traveling trade, but seasonal farm labor. The police asked the interior ministry for permission to expel them back to Austria as “troublesome foreigners” in view of the “public welfare.” During his detention, his wife and two small children (who were still breastfeeding) were kept in police custody, while his other four children were removed and sent to live in an asylum for the homeless. Permission for expulsion was issued by Munich immediately.⁶²

Muzik had been legally working in Bavaria, but the police had gone around the law in order to expel him from German territory. The police began the project of turning Gypsies into *homines sacri*. Criminalization through arrest and diligent persecution was the first step, but when those methods proved inadequate, executive authorities and the police were willing to use violence and extralegal solutions to keep Gypsies out of their national community.

Implications of Police/Gypsy Interaction in Germany and Italy

The police carried out the prerogatives of executive power on the Gypsy populations within both Italy and Germany, but in both places the failure of executive authorities to offer a satisfying image of what exactly constituted a Gypsy made police work very difficult. In other words, there was a distinct difference between executive directives on a regional and a national level, and the ability to put them into practice on the

local level of the police. The police did not know who was a Gypsy and, therefore, they could not implement the executive plan to exclude them from the national community. A main component of the plan was the criminalization of Gypsies, so that in both countries, the category of Gypsy became synonymous with criminality. The universalism inherent in liberal 19th-century concepts of law conflicted with the executive's nationalizing project, which specifically sought to exclude particular groups, like the Gypsies, from the national community. The police were the first point of encounter between Gypsies and executive authority, and their inability to satisfactorily resolve the tension between nationalism and rationalist bureaucratic norms pushed executive authorities to look for new solutions to the Gypsy problem.

3

Executive Struggles in Italy 1861–1909

The building of the nation-state in Germany and Italy meant a new relationship between those who lived there and the executive authorities. Dieter Gosewinkel explains, “State and nation entered into a new relationship. Belonging to the *national* state implied belonging to the nation.”¹ Gosewinkel characterizes this shift as the “nationalization” of the state, a construct that, as Hannah Arendt justly pointed out, set the stage for the development of statelessness.² The closer relationship between the state and nation meant that the executive authorities would have to sharpen their anti-Gypsy policies if they wanted to keep those they labeled as Gypsies out of the nation. The place of birth and residence of populations labeled as Gypsies became critical, since these factors might be, and often were, used by Gypsies to claim belonging in the state (which, in turn, as Gosewinkel argues, implied membership in the nation).

Executive authorities in both countries attempted, in the period before 1910, to operate within the norms of the rational bureaucratic state, adhering to laws and constitutions. The effort often proved frustrating because liberal universalist law conflicted with the reality of a heterogeneous population that authorities sought to fashion into a national community. The solution adopted in both countries, with some variance in the route taken to achieve their goals, was to gradually “foreignize” Gypsy populations, so that they could be more easily subjected to treatment that violated the legal equality of citizens, since they did not “belong” to the national community. The “foreignization” of Gypsies allowed executive authorities to get around laws protecting national residents, subjecting them to the arbitrary treatment. Simultaneously, Germany’s and Italy’s policies were part of a larger Western European movement aimed at marginalizing Gypsy populations. As

border control and national policies tightened, Gypsies were battered about between one unfriendly national government and another, constantly facing expulsion and expropriation at the hands of various national authorities. Thus, Gypsies entered into a state of exception in which national laws no longer applied to them, and they had no standing in international law because they often had no established nationality. The very amorphousness and uncertainty of the nascent ethnic identity among those labeled as Gypsies, while helping them to resist the burgeoning number of disciplinary mechanisms established by the state, also made large scale, organized resistance difficult. Gypsies became Agamben's *homines sacri*, abandoned to the violence of the executive authorities, with no authorities to defend their rights. In Germany and Italy, the executive authorities operated without legislative participation, and without judicial review of the administrative regulations. This brought Gypsies into a gray area in relationship to the bureaucratic norms of the state: while executive authorities still claimed to operate within the law when it came to Gypsies, they had *de facto* moved their relationships outside of legal boundaries, with only an occasional frustrating encounter with a judicial system bound to uphold the law. The already complex situation was only further muddled by an increasingly democratic public who complained about the so-called "Gypsy nuisance," via complaint letters, petitions, or newspaper articles and editorials. Executive officials felt pressure from their own publics and other nations to act against the Gypsies, and they increasingly pushed them outside of the realm of law and into a state of exception.

"Foreignizing," Italian Style

The dominant 19th-century ideology of liberalism shaped Italian history from its conservative Cavourian beginnings in 1861 to its more progressive Giolittian iterations at the beginning of the 20th century. Liberalism in Italy, as in other European nations, sought to empower the middle class both politically and economically, and in many respects succeeded in this task. As many historians have pointed out, the struggle for the primacy of the middle class faced special challenges in the Italian case, owing to the disparate nature of state forms in preunification Italy, the vast disparities of wealth and development, and the fractured relationship with the Catholic Church during the liberal era. In the struggle to secure the political power of the middle classes, liberals from both a conservative and more progressive background often did so by repressing the "dangerous" classes who posed a threat to their

dominance. Early liberalism was not democratic, but became increasingly so by the beginning of the 20th century, particularly due to the reformist administrations of Crispi and Giolitti.

A commitment to liberalism did mean, however, certain protections for the individual that clashed with the impulse to dampen threats from the poor. Stefano Rodotà argues that this contradiction was resolved in favor of economic liberty, often at the cost of political and civil rights. For example, one of the most striking and unique features of the Italian civil code of 1865 was that “the foreigner [*straniero*] enjoys the same civil rights obtaining to citizens” – a remarkably liberal formulation that enshrines the principles of equal treatment under the law even to those who were expressly *not* Italian, an important factor to consider in the case of the Gypsies, who were always already coded as “foreign.” However, the seemingly wide implications of such a statement “ceased in the face of the right to property and at the threshold of the family.”³ Liberals viewed any attempt to redistribute wealth as suspicious, and only moved towards greater protections for the working class, including the right to unionize, once socialist activism had peaked around the turn of the century, and liberal repression under Pelloux had failed to quash it. Thus, from the beginning, Italian liberalism was both committed to the freedom of the individual and the universal applicability of law, but was always willing to move towards “exceptions” from the law when the dominance of the liberal classes or the security of the national state seemed to be under threat. Actions taken by the liberal governments of Italy against Gypsies were couched in this language of exception and coded as a specific threat to the security of the nation and, through constant theft, as a threat to the economic well-being of its poor citizens. Liberal governments, through targeting Gypsies, could address the issue of rural theft, of great concern to peasant farmers, a growing class of voters by 1909, and use the same “exceptional” categories that had spurred them to take action against southern brigands and socialists.

In August 1909, the foreign minister, Tommaso Tittoni, asked the interior minister, Giovanni Giolitti, if the Italian government would be interested in participating in an international conference proposed by the Swiss. The Swiss intention was to create an international body for regulating Gypsies who lacked nationality. He wrote:

This administration is unable to determine whether such a category of people is present or resident in the territory of the kingdom in such great numbers and so common that it would be advisable to make an international agreement and take on responsibilities, the likes of

which are discussed by the Swiss government, and that may result in our having to admit permanently on our territory and to consider as citizens, those persons who have no homeland, are nomads by nature and generally not inclined towards regular conduct.⁴

Responding for Giolitti, the director general of public security advised against Italian participation in the conference, citing the following reasons:

in Italy we do not have a class of persons of Italian nationality that one could consider as belonging to the category of real-existing and proper *zingari*. There are, it is true, a few hundred families who, based on the profession in which they are employed (acrobats, wanderers) necessarily lead a nomadic life, but those people are of the Italian nationality and they cannot be considered as or treated in the same manner as the *zingari*, who are people of indeterminate origins and nationality.

Thus the necessary presupposition for participating in the conference is missing, and in fact, the caravans of *zingari* that the authorities of Public Security must deal with according to their authority, are constituted of foreigners who have illegally penetrated the kingdom, despite the vigilance exercised at the borders in order to keep them out in accordance with the last part of article 92 of the current law of Public Security.⁵

The director of public security added that Gypsies, not being specifically mentioned under any existing law, were regulated by laws covering “dangerous foreigners,” in other words, articles 90, 91, and 92 of the public security law. Foreigners, according to the civil code, were entitled to the protection of law, but “dangerous foreigners,” according to the law, were liable to prosecution. The gray areas here were palpable. What, exactly, might qualify one as a “dangerous foreigner” as opposed to a “foreigner”? Clearly, all Gypsies, in the eyes of the director of public security, belonged in the former category. He added that Gypsies were almost always expelled from the kingdom with “maximum rigor” and “in proper consideration of their fearsomeness, for the fact that their simple presence in the kingdom constitutes a permanent danger for the public order.”⁶

The exchange between the director of public security and the foreign minister illustrated the culmination of the Italian national government’s

evolving efforts to categorize Gypsies in the early 20th century: persons born in Italy could not be Gypsies, since Gypsies were, by definition, foreigners. In a similar vein as Gosewinkel, Italian legal scholar Enrico Grosso argues that nationality “superseded” citizenship and became indistinguishable from it.⁷ Gypsies brought forth the inherent tension between liberal universalism and nationalism for executive authorities. Since, for centuries, Gypsies had been considered a category of “undesirable outsiders,” who were not part of the community, the unification of Italy and the concomitant *nationalization* of Italy meant that the category of Gypsy was not reconcilable with citizenship. Nationalism, by the early 20th century, had come to mean excluding those who did not fit the image of the “universal” citizen, as contradictory as this may sound.⁸ Every nation’s citizens were the “universal” imagined in the laws and the constitution. If a particular group, like the Gypsies, did not adhere to the nationalist imagining, they were, at least in the vision of national authorities like Giolitti, to be perceived and treated as dangerous “foreigners.” Problems arose, naturally, when that national vision ran into the practical difficulties of regional and local authorities who were confronted with those who they would categorize as *zingari*, but who were born in Italy and could make claims to Italian nationality. Executive authorities then had to resolve this tension on every level of state power.

The Italian definition of Gypsies as foreigners was very similar, in fact, to the position of the Swiss, who also maintained that there were in fact, no Swiss Gypsies, but differentiated Italy from Germany, France, and Great Britain, where a double-pronged approach for dealing with “native” and “foreign” Gypsies was practiced.⁹ In those countries, authorities admitted the existence of Gypsies with claims to nationality, yet often sought to create them as a category apart, either through legislation (France, England) or through administrative regulations (Germany). In contrast, Italian national authorities refused to recognize the problem by denying the existence of a “native” population of Gypsies. Italian authorities on the national, regional, and local levels developed a *de facto* response to this national policy by creating an informal policy of expulsion before World War I, culminating in a wave of expulsions, including Italian-born Gypsies, in the years 1910–11, nominally in response to a cholera outbreak in the region of Puglia in 1910. The policy, as the director of public security noted in his response to the foreign minister, operated in a kind of state of exception provided for in the public security law that allowed the expulsion of “dangerous foreigners” without judicial review.

The exchange over the 1909 telegram also demonstrated another complicating factor for executive authorities. Some families with traveling professions *did* count as part of the Italian national community, yet, they had the same professions and lifestyles as Gypsies. How was a diligent regional or local official to distinguish between the “few hundred” legitimate Italian families with traveling professions from the undesirable Gypsies? The unclear image of the Gypsy that had posed such challenges for the Italian police also thwarted efforts at identification and expulsion of Gypsies found in Italy. In effect, some acrobats, circus performers, or traveling peddlers were occasionally able to shed the label of Gypsy and become “native” Italians during this period. This, however, was a narrow opening and a revolving door: persons could float in and out of the category, depending on public opinion, the assiduousness of the local authorities, or the economic situation of the town. Gypsies, whether born in Italy or not, who could not prove their birth beyond a shadow of doubt, were subject to a constant regime of forced expulsion from one national border to another, with intermittent detainment in substandard conditions while the authorities decided the best way to get rid of them. During these periods, their belongings were sold to support the detainment, and they were unable to earn their livelihoods from their professions, leaving them with barely enough to reach the nearest national border (or internal regional border). The arbitrary treatment walked a fine line between the legal norms and the state of exception. Since the public security law allowed distinguishing dangerous foreigners from other types of legally present foreigners, executive authorities *de facto* singled out Gypsies as a group of dangerous foreigners, regardless of their actions or livelihood. The protection offered to “foreigners” under the civil code was violated, and all Gypsies, regardless of their individual standing under the law, were placed in a state of exception, where the normal protections offered both to citizens/nationals as well as foreigners no longer applied.

National Italian policy towards the Gypsies was fairly constant from the time of unification through World War I, though the amount of pressure the national authorities exerted on regional prefects and local officials to execute the policy waxed and waned. A circular from 1872 from Giovanni Lanza’s interior ministry to the prefects of the kingdom signaled the initiation of a national political strategy for the category of Gypsies, remarkably similar to the official policy from 1909: “The *zingari* are vagabonds . . . they must be punished with jail sentences and expelled from the kingdom: the possession of a regular foreign passport certainly does not subtract from the application of the law.”¹⁰ The circular was

issued in response to complaints from the prefects of northern Italy about caravans of Gypsies traveling around with women, children, and animals. The prefects stated that they were causing a distinct threat to public security. The circular, notably, only seemed to assume two definitive characteristics for Gypsies: foreignness and vagabondage. It described the Gypsies in the following manner: “they go around apparently explaining dreams and telling fortunes, or other small labors; but in reality they live by the fruits of begging, theft and fraud; in the cities they are a burden, in the countryside they are dangerous.”¹¹ Gypsies thus constituted a threat to the imagined national citizen, and were slated for expulsion, even if they were *legally* within the Kingdom of Italy. Thus, the interior ministry singled them out for special treatment, but not through legislative channels – instead through the informal network of executive power which extended from the interior ministry down to the local prefects, public security guards, and the *carabinieri*. The circular also explained that local authorities should not, under any circumstances, issue Gypsies a permit to practice traveling professions, insinuating that it would be much easier to arrest and control people without documents, thus removing Gypsies from the protections which might be afforded them in a court of law.

When the prefects and local authorities attempted to enforce such instructions, however, their inability to distinguish Gypsies from other groups of “foreigners” or “vagabonds” who traveled around practicing trades became problematic. The amorphous image of the Gypsy constantly stymied national efforts to expel them, and it became a source of constant friction between local and national authorities.

The Fuzzy Image of the Gypsy, Again

On July 23, 1873, the mayor of Turin informed the *questore*, or police commissioner, that there was a caravan of Gypsies in the city that had not yet been expelled, resulting in complaints from the citizenry. He also wrote, one week later, to the regional prefect, responsible for the city and its immediate environs, when he did not receive a response from the *questore*. He stated the presence of the Gypsies had provoked “some alarm within the population who are complaining to the communal authorities, fearing terrible consequences from contact with them, considering the current threat of an epidemic.”¹² The language of the mayor revealed the association of Gypsies with disease, particularly cholera – a linkage that would lead to the expulsions of 1910, when a group of foreign Gypsies arriving from northern Italy were blamed for

a cholera outbreak in Puglia, despite their complete immunity from the disease. The mayor requested that the prefect provide for the immediate expulsion of the caravan from the territory in order to “calm the more or less justified fears of the citizens.”¹³ The local mayor drew both on national sentiment and public pressure to force the hand of the executive authorities immediately superior to him.

The prefect responded to the mayor's letter in four detailed pages, explaining that the caravan in question was a group of 47 Hungarian coppersmiths, and reassured the mayor that he had taken the necessary steps to begin the process of expelling them into France, the border from which they had entered the kingdom, but that he had been thwarted in his attempts by the people themselves (who he did not call Gypsies explicitly until later in the letter). The group had appealed to the Austrian consulate, and then had received permission directly from Rome to remain in Italy. The interior ministry in Rome based their permission on the fact that the group had lived in Italy for nearly two decades and that they had earned a sufficient amount of money to support themselves. The problem, then, explained the prefect, was out of his hands, and there was nothing he could do, especially in consideration of the fact that they “had never given cause for complaint through their behavior, and the minister believed that it is not the case that these people could be carriers of the deadly germ by the very fact of their permanent presence in Italy.”¹⁴ He ended the letter by requesting that the mayor place an article in the local paper, assuring the population that these Gypsies were not a threat and that any of them who posed a risk would be immediately expelled.¹⁵

Here, just one year after the interior ministry's telegram instructing prefects to expel all Gypsies, local, regional, and national authorities were already having difficulty implementing the directive. The Hungarian coppersmiths were clearly foreign, and they practiced a traveling profession. The local mayor assumed they were Gypsies, as did, apparently, the general public (although the mayor does not specify which characteristics led him to define the group as Gypsies). The mayor then naturally assumed that the group should be expelled, *regardless* of the fact that the Hungarians had legal passports and had committed no crimes. However, the prefect, acting as kind of a regional mediator between the local and the national, informed the mayor that the interior ministry, in what seemed an obvious violation of their own policy, had decided to let the group remain. Their logic, no doubt, was aided by the Austro-Hungarian consulate's willingness to defend the right of its citizens against the power of the Italian state. This case tested the

tie between national belonging and the rights of the individual. Since these Gypsies asserted their Hungarian nationality, and Hungary in turn recognized their nationality, the Italian nation-state accepted their claims. Having an acknowledged nationality served to protect the coppersmiths from being placed in a state of exception where they would be, effectively, stateless, and subject to the arbitrary whim of executive powers.

In a similar case from Alessandria in 1873, the prefect wrote to the mayor, explaining that a caravan of Hungarian coppersmiths (*calderai ungheresi*) had entered the province and that they had been living in Italy for around six years, and that despite the fear generated by their presence, they were in a good state of health, and had exercised their profession honestly. For this reason, he explained, he had decided to grant them permission to remain in the province of Alessandria, but that before he issued them the papers he wanted the mayor to send out a doctor to verify their sanitary conditions.¹⁶ Again, here, the amorphous image of the Gypsy made executive policy difficult to implement. The mayor of Alessandria considered this group of Hungarian coppersmiths to be Gypsies, yet, the prefect, in justifying their presence on Italian territory, appeared to studiously avoid the use of the word. Singling out Gypsies for persecution became a complicated matter when the contours of the category were unclear. It became the role of the local and regional executives to implement the policy, and thus define the category of Gypsy. The prefect clearly felt that the coppersmiths served a purpose in the region, and that their behavior classified them as “honest” foreign nationals whose civil rights should be respected. The mayor, however, felt differently, but ultimately could not overrule the decision of the prefect. The next mayor or the next prefect of the area this group visited would have to make the decision all over again: Hungarian coppersmiths or Gypsies? Since the determination of their status lay with executive officials, the group walked a fine line between remaining in Italy as tolerated foreigners, or being expelled as undesirable Gypsies. However, as their compatriots in the first example demonstrated, they still had some legal recourse to prevent their expulsion from Italy, since they could fall back on their Hungarian nationality.

Besides keeping out or expelling Gypsies, Italian authorities were not supposed to be issuing legitimizing documents to them, another source of conflict between local and national authorities. An illustrative case was the 1877 arrest of Ercole Innocenti and Rachele Casalino. Innocenti was arrested for theft, swindle, and threats, and Casalino for prognosticating the future in exchange for money. They both produced various

legitimizing documents issued from Italian authorities, under several names. Innocenti had an internal passport for a Giuseppe Carrieri, and Casalino had certificates issued by the city of Zinasco granting Rachele Innocenti and Giuseppe Lucchesi (a common pseudonym) permission to exercise itinerant professions.

It is clear from the documents themselves that the issuing mayor did not pay much attention to whom he gave permission to exercise itinerant professions, in direct conflict with national authorities' remonstrances to be cautious when issuing these papers to those suspected of being Gypsies or vagabonds. First, the permissions listed no address, stating that the couple did not have a "fixed domicile," which alone was supposed to be grounds for the denial of their request. Second, the mayor issued Rachele Innocenti's permit for the professions of traveling merchant and *sonnambula* (somnambulist), and for her husband, harmonica player (with three children). Again, these professions were supposed to arouse the suspicions of an attentive mayor: the public security law of 1865 explicitly forbade the profession of *sonnambula*. Both also received permission from the mayor to practice their professions in the "entire kingdom," also technically illegal since the mayor only had the ability to issue the permits for his locality. The law required the mayor to send these papers on to the local public security office before releasing them to the applicants. The public security officer, clearly more attentive than the mayor, crossed out the profession *sonnambula* from Rachele Innocenti's papers, and also added that the permission was good for the entire kingdom "except the city of Pavia" for Lucchesi. What is remarkable about this addition is that the public security office was actually in Pavia; thus, the director of public security was in essence declaring that they were not wanted in his city, but could go anywhere else they wished; certainly evidence in favor of the persistence of regionalism in post-unification Italy!

After arresting the couple, the *carabinieri* in Alessandria interviewed the mayor of Zinasco, asking him why he had issued the papers to people who were so clearly suspect. He stated that the papers very well could have been issued for another couple who were only similar to the arrested, and that they had always had good conduct while living in Zinasco.¹⁷ There are distinct similarities between this case and those of the Hungarian coppersmiths insofar as the *carabinieri* arresting Carrieri and Casalino clearly believed them to be Gypsies, while the mayor who had issued them legitimizing papers had not categorized them as such. His motivation, however, seemed to be pure laziness, rather than any attempt to implement the strictures from Rome regarding Gypsies.

In this case, tension arose between the mayor and the authorities on a regional level, the *carabinieri* and the prefect, because the mayor had acted pragmatically rather than obeying Rome's instructions. In the case of local mayors, it was often easier to give people the papers they requested and let them leave the town, rather than start an argument and have to detain the people until their nationality could be determined and they could be expelled from the country. As Scott argues, embracing an amorphous biography and identity, as this couple did, was a way to effectively resist legibility projects on the part of the state. Like the public security official here demonstrated, issuing papers that would keep the couple out of *his* city was easier and cheaper than engaging in a full-scale investigation into a dubious and ever-changing background. Low pay and low status, both for the *carabinieri* and in this case the mayor of a small town, meant that in many cases Gypsies could continue to operate in a niche economy. However, the criminalization of Gypsies also guaranteed that many who had been able to eke out a living were eventually pushed out of the community. Carrieri was convicted and served a jail sentence. The charges against Casalino were dropped, however, after the farmer's wife dropped her accusation of fortune-telling. Gypsies always walked a fine line when the policies against them were based on informal administrative regulations and amorphous categorizations. They often skillfully navigated the considerable loopholes in the informal web of persecution, which increased executive authorities' frustration with the perceived problem.

In 1877, another Giuseppe Lucchesi was arrested for theft in the province of Alessandria. He presented papers permitting him to perform as an acrobat (*saltimbanco*) in the city of Rivalta Bormida issued by an "aged" assessor, according to the report of the local public security office, who sought to use the assessor's age as an excuse for their mistake. The assessor, when interviewed about the arrested, stated that he could not recall the physical description of Lucchesi, and that in any case it would be impossible to "ascertain the identity of that individual, having seen him only one time and not paying much attention to him."¹⁸ The assessor had clearly not respected the law regulating permits for itinerant professions, which required that the identity of the permit holder should be clearly determined. Perhaps for this assessor, it was not worth the work it would require to ascertain the identity of a young man who wanted to put on a traveling acrobatic show in the piazza for two days. National prescriptions designed to create a category of persons (vagabonds and Gypsies) who were not to receive legitimizing papers were not being implemented on a local level, either for reasons of

convenience, or because of the difficulty and the expense of conducting the research to determine if a particular person could legally be issued a permit. The local assessor in Rivalta Bormida, like the mayor of Zinasco, found it much easier to issue the requested permits and have the people disappear after a few days than to have those people stay in the town indefinitely while their identities were determined.

As in the case of Casalino and Innocenti, the interior ministry's pressure on the police to implement their directives had some success here. The *carabinieri* arrested Lucchesi for a minor theft. The executive authorities could face resistance, or just plain laziness, from local officials, but the police project to criminalize the Gypsies seemed somewhat more successful. The central government in Italy was not powerful enough to overcome the practical autonomy of local communities, but did have more direct control, through the system of prefects and *questore*, over police forces. In both cases, when local officials failed in their duties, the *carabinieri* effectively criminalized the individuals. Nonetheless, the project of criminalization, as outlined in Chapter 2, was not an easy road for the executive authorities either.

Competing Agendas – Local, Regional, National, International

The national authorities' amorphous image of the Gypsy caused considerable difficulty for local officials charged with implementing anti-Gypsy regulations. It was particularly difficult for them to deal with cases of those people born in Italy who fit into the "image" of the Gypsy, either because of appearance, language, or profession. If committing crimes and being foreign were really the only definitive categorical attributes of Gypsies, what could local authorities do with those who were not committing crimes? The lack of an adequate definition led to a haphazard, ad hoc implementation of national policy, disappointing the hopes of national authorities for a simple solution.

Since the national government was often trying to gain better control of the regions of Italy, places that exhibited independent initiative when it came to the Gypsy problem were not necessarily rewarded for their diligence. For example, in 1909, the municipality of Spinea in the Veneto attempted to pass local legislation preventing Gypsies from entering Italy. The municipal council complained that "for some time, Gypsies had invaded their communities, committing thefts, violent and rebellious acts, and frequently also spreading the germs of infective maladies."¹⁹ The interior ministry, on behalf of Giolitti, responded to

the initiative by stating that “it is not necessary for any extraordinary or special measures to be taken, since the rigorous application of the norms contained in the reigning public security law articles 90, 91, and 92, regarding the treatment of dangerous foreigners in relation to public order, and within which the Gypsies are naturally included, is sufficient.”²⁰ The response demonstrated the reluctance of national authorities to seek legislative solutions to what some municipalities like Spinea viewed as a threat to public security. Italian authorities did not offer an explanation as to their reluctance to endorse the legislation, but the singling out of one particular group would have meant a violation of the liberal adherence to the universal applicability of law. The legislation could also prove limiting to the extent that Gypsies would be brought into the realm of law, which was adjudicated by the courts, and would have required more precise identification of who actually was a Gypsy. As it stood, the public security law allowing for the expulsion of undesirable foreigners did not require judicial review of the expulsions. The public security authorities could thus proceed with expulsions more efficiently and simply. Lumping Gypsies in the general category of “undesirable foreigners” allowed authorities to continue operating within the confines of the liberal legal norms of the bureaucratic state by claiming that expulsions were based on the *actions* of the Gypsies, rather than their ascription to the category of Gypsy. Of course, underlying their treatment was the assumption that all Gypsies were criminals by default, but this was never legally encoded. Official circling around the law to rid Italy of Gypsies increasingly forced them into a state of exception, with limited options to defend themselves against the power of the state.

Another consideration for national authorities was that the passage of specific anti-Gypsy legislation would have made the expulsions more difficult from a foreign policy standpoint. From correspondence with the Swiss and Austrians, it is clear that Italian national authorities at least had an eye on the international situation, and other countries in Western Europe had grown increasingly frustrated with Gypsies of dubious nationality who were being expelled over national borders. Adding to this by passing specific legislation labeling people as Gypsies and then trying to expel them would only further complicate efforts to get rid of them. It was far better to set the goal of eliminating the Gypsies via administrative circulars and carry out the task by lumping them in with undesirable foreigners and criminals.

In 1880, the Italian interior ministry, headed by Agostino Depretis, sent a note to the foreign ministry regarding “foreign Gypsies.” The impetus for the note was the complaints of regional officials, mainly

prefects, that Gypsies continued to enter into Italy and that many of them were in possession of appropriate visas issued by Italian consulates abroad, which made it significantly more difficult for public security authorities to arrest and expel the Gypsies. The interior ministry wanted the foreign ministry to instruct the Italian consulates abroad to deny all Gypsies permission to enter Italy, even if they were in possession of valid passports. The foreign ministry did issue a directive to the consuls abroad in that same year, signed by the undersecretary of state. It stated that the interior minister wanted to recall attention to previous attempts to forbid the entrance of “those groups of individuals, known under the name of Gypsies, who, even if they seem to demonstrate that they practice some sort of art or small commerce, live in reality from begging, swindle and theft and always constitute a disturbance and a danger for the public order of the State.”²¹ It instructed the officials not to issue Gypsies any kind of official documentation, so that if somehow they did arrive in Italy, it would be easier for local officials to deal with them. The directive was a circular from the government, rather than formal legislation forbidding the issuance of traveling permits to Gypsies. As in other similar directives, the instructions failed to offer a clear image of the Gypsy, instead identifying them mainly as criminals. A consulate official would thus have a difficult time implementing the directive in any meaningful way, since a clear category of application was missing.

The ineffectiveness of the order to the consulates was evidenced by another letter from the interior ministry to the foreign ministry in 1891. This note complained that the Italian consulate in Nice had issued visas to a group of Turkish Gypsies, which explicitly violated their earlier directives.²² The foreign minister responded that he had issued the requested directive to the consulates, without further justification. The laconic tone of the above response is certainly understandable given the vague and ambiguous nature of the instructions from the interior ministry. These kinds of vague instructions, similar to the ones issued to local officials within Italy, seem to demonstrate that the Italian liberal government felt the need to respond to local and regional complaints, but only to the extent of paying “lip service,” so to speak, to their demands. Acting more forcefully against the Gypsies would have required a significant increase in manpower along the borders and more funding for local police forces, which would not be forthcoming.

International Agendas

The Swiss government was one of the most active governments to reach out across national borders to attempt to regulate the Gypsy “problem.”

Aside from sending out feelers to most Western European countries about an international conference in 1909, the Swiss were in frequent contact with both German and Italian authorities about Gypsies. The Swiss overtures for an international conference were rejected by the Italians, as stated above, and by the other countries they approached. Giolitti's director of public security made it clear that a conference would only complicate their policy, which was predicated on the existence of "dangerous foreigners," not Gypsies. Italy, and most likely the other invited countries, also rejected the idea because, as the Italian Foreign Minister noted, the Swiss proposed to "regularize the condition of Gypsies" by first engaging in cooperative research to determine the "country of permanence" for Gypsy groups, and then divide up the remaining Gypsies according to special criteria outlined in the proposal. All of the governments involved would have to accept "as their own citizens, unless contrary proof arose, those Gypsies whose true origins remained unknown, and who had resided in their territories" according to the criteria laid out in the proposal.²³ The independent nation-states viewed this as a decided encroachment on national sovereignty, and considering how much trouble national authorities and police were undergoing to rid themselves of Gypsies, being forced to accept those who were *de facto* residing in their territory as citizens must have seemed patently absurd. The Swiss were acting in their own self-interest, since they clearly believed that there were few, if any, Gypsies residing in their territory, and that their own problem stemmed from the loose border control and expulsion policies of their neighboring states. Despite Swiss efforts to "internationalize" the Gypsy question, it remained closely bound to individual nation-states.

In 1908, Swiss authorities barred Gypsies from traveling on the rail lines through Switzerland, regardless of their documentation. In a telegram from the Italian legation in Bern to the foreign ministry, an officer reported that caravans of Gypsies would no longer be accepted on Swiss trains unless they could prove beyond a doubt that there would be "no difficulties encountered" upon their arrival in a neighboring state. "This provision has been taken following the Italian authorities' refusal, on several occasions, to allow caravans of foreign Gypsies who are coming from Switzerland into the territory of the Kingdom, even though they are furnished with regular documents (something which seems to be a very astute provision)."²⁴

The Italian national authorities' crackdown on admitting Gypsies into their territory caused repercussions in the surrounding nation-states. The Swiss response demonstrated that Italian directives to limit entrance

to the Kingdom had proven effective enough to arouse the ire of Swiss authorities. However, this cycle of crackdowns in Western Europe eventually made policies more and more difficult to implement against those groups of Gypsies who were either living within the boundaries of the nation-state (and could no longer easily be pushed over a border), or those who were still attempting to make a living by traveling. The crackdown also caused the Italian authorities to be more circumspect in the way they expelled Gypsies found on their own territory – which was actually an advantage built into creating a non-legislative and flexible executive policy. For example, a group of Gypsies arrested and expelled from Parma in 1908, under the name Lehmann, claimed to have entered Italy through Switzerland. According to the Italian policy of the time, the Gypsies were supposed to be expelled over the border through which they had crossed into Italian territory, without formal expulsion procedures. However, in this particular case, the prefect of Parma had informed the Swiss authorities that he would be returning that group of Gypsies over their border. The Swiss authorities, somewhat predictably, prepared for their arrival and rejected them at the border.²⁵ The prefect of Parma seemed to be acting in good faith to enforce the letter of the law and inform the neighboring country of the imminent arrival of the group. Once the international tension over Gypsies rose, however, such actions would no longer have been wise. Executive authorities then learned to work around the law rather than within it when they dealt with Gypsies, in order to more easily shut Gypsies out of the national community. Gypsies, unlike most other foreigners, were increasingly viewed as *homines sacri*, individuals without any national protection.

By the turn of the century, Gypsies increasingly existed as an exception to the norms of the bureaucratic state, and were dealt with outside of the law. No matter what their documentation, they lost their right to travel between states as people of other nationalities did. The “exceptional” treatment of Gypsies is evident in an article from the liberal Swiss newspaper *Il Dovere*, from the Italian speaking Ticino canton. In 1908, they reported an “unwanted visit” of a group of Gypsies from the other side of the Italian border. A young policeman encountered the group in the canton, and proceeded to conduct the group back over the Italian border and “thus we pay public tribute and praise to those who know how to act with the proper energy to liberate us from a visit which was not welcome to the inhabitants of this town.”²⁶ The fact of being a Gypsy, however flexible and vague those criteria were in practice, was sufficient evidence for expulsion in many European nation-states.²⁷ The

rising international awareness increased internal pressure on authorities in Italy, and further intensified the endless cycle of shuffling Gypsies back and forth over national borders, moving them closer to the status of Arendt's "stateless people" and Agamben's *homines sacri*, exposed to the vagaries of executive power without the protections offered by the nation-states.

Nationalization/"Foreignization"

The cycle of perpetual expulsions led Italian authorities to pursue a more determined policy of "foreignization" and to some degree, its counterpart, nationalization, of Gypsies in the early years of the 20th century. Many Gypsies who claimed Italian birth or long time Italian residency came to have their claims to Italian nationality denied through criminalization and confiscation of their documents. On rare occasions, however, people labeled as Gypsies who possessed incontrovertible proof of their Italian nationality were "nationalized" – they became (legible) Italians rather than Gypsies. Their status, however, was at best precarious, and could be taken away by authorities.

One of the most fundamental elements of the "foreignization" of Gypsies was to take Gypsies at their word when they were questioned as to their country of origin. One country that came up frequently in police interrogations was Montenegro, which had a particular significance for the Italian imagination in this period, particularly in Piedmont and areas of the north. Vittorio Emanuele III, who acceded to the throne in 1900, married a Montenegrin princess, Elena, who became queen of Italy and reigned until the deposition of the house of Savoy after World War II. Elena was rumored to have Gypsy ancestry, adding to her mystique and evoking a Carmen-esque image. So, in many cases, I suspect, Gypsies arrested by Italian authorities attempted to use this knowledge to their advantage by claiming Montenegrin ancestry. Their claim also meant that they would be expelled to Montenegro, which was a country that had conveniently become very friendly with Italy through the dynastic alliance. From Montenegro, the Gypsies could and would often make their way back into Italy easily. Like other "barbarian" groups described by James Scott, including Cossacks and Hmong, Gypsies' own flexible identity enabled them to effectively use their lack of legibility to their advantage, confounding the representatives of the bureaucratic state.²⁸ The claiming of Montenegrin identity seemed particularly common among long-time Italian residents, and constituted a form of resistance practiced by the Gypsies, creating a

narrative of their supposedly royal ancestry. For example, a family of “Montenegrin” Gypsies had been arrested in Varallo in August of 1907. Judicial authorities released the caravan shortly thereafter since the charges under which they had been arrested were dismissed. Thus, the executive authorities were not given the opportunity to proceed further with their expulsion – a constant node of conflict between executive and judicial authorities that I will discuss further in Chapter 6. The Prefect of Novara did not know where the group had gone and reported this to the interior ministry. The group was composed of Montenegrin residents (*sudditi Montenegrini*) with the surnames Lucchesi, Bosco, Gronfo, and Cuzzuli. There were 33 group members, and most of the individuals were Italian-born, even some who claimed Montenegrin nationality.²⁹ Giovanni Bosco claimed that he was born in Naples, and had lived his entire life in Italy, despite being “Montenegrin” in nationality and “resident” in Cettigne. He also possessed a license entitling him to exercise the profession of horse trader and an internal passport for Italy.³⁰ The caravan had been arrested for “reasons of public security” and grew increasingly intractable in the local jail, committing “acts of vandalism in the cells” and insisted on being released, and “they do not cease to make noise, even at night, provoking just resentment on the part of other detainees, who, not being able to sleep, are threatening a mutiny.”³¹ It is certainly imaginable that their release was welcomed by the jail in Varallo where they were being held. The arrest of the group for reasons of “public security” showed again the propensity of public security officials to criminalize Gypsies who had committed no punishable crime, and had all of their papers in order. However, in this case public security officials were thwarted by a judiciary reluctant to hold a family who had not been accused of any crime. In this case, the official record of this group listed them as possessing Montenegrin nationality, despite all evidence pointing to their probable Italian nationality. If they were re-arrested in the future, there would be a paper trail indicating their Montenegrin nationality, which would have eased their expulsion, and kept this particular group outside of the legibility projects of the modern bureaucratic nation-state.

The number of Gypsies claiming Montenegrin ancestry tended to aggravate the Montenegrin authorities. The Demetre family, for example, was arrested in the district of Pisa in 1909. The prefect contacted the Montenegrin consulate in Rome to determine if a family by that name could be found in the public records of Cettigne. In a letter to Rome, the prefect of Pisa explained that the embassy could find no such record, and that the consul had also stated that “this is not the first

time that foreign Gypsies coming to Italy have passed themselves off as Montenegrin residents [*sudditi*], which reveals, according to him, a plan to denigrate the image of the Montenegrin population, which does not include travelers [*girovaghi*]." The final portion of the sentence was underlined by the interior ministry official reading the letter, further emphasizing the damaging effect such claims were having on the relationship. The prefect related that the consulate had declared that they would now "completely disinterest" themselves from foreign Gypsies.³² The story did not end here; many Gypsies arrested subsequently continued to claim Montenegrin origin, especially those who had lived in Italy for quite some time (according to their own accounts).

When Italian authorities took arrested Gypsies at their word, and either covertly or overtly sent them back over the border by which they entered Italy, they perpetuated the cycle that they were trying to defeat, and they continued the escalation of tension among bordering neighbors. For example, a group of Serbian Gypsies who were arrested in Cuneo in 1906 were expelled from Italy to France (since they had entered through that border). The very next day, the same caravan (with an additional 24 members) was expelled from French territory by the gendarmes there. The "head of the committee [of Gypsies] finds himself exposed to serious hardship on the street" and the Prefect of Cuneo asked the interior minister what to do, since he could not send them back over the French border again.³³ The interior ministry responded by stating that the French gendarmes did not have the authority to reject the Gypsies, since their papers from Austria-Hungary were in order and they had sufficient funds to support themselves in France! The interior ministry official instructed the prefect to send them back over the border, and in the case of further difficulties, to contact him again and he would be in touch with the Serbian consulate in Milan.³⁴ A letter from the Italian consulate in Nice to the director of public security in Rome from December of 1906 defended the actions of the French gendarmes, and again alluded to the tensions between the freedom of movement enshrined in much liberal lawmaking and the strictures of nationalism, which left the Gypsies outside of *all* national communities.

In his response to Rome, the consul noted that the Italian government had refused passage to a different group of Gypsies expelled from France and heading toward Austria-Hungary. The French government claimed that the majority of the Gypsies in that group had entered France from Italy, and the French government had expelled them to Austria-Hungary (Bosnia and Serbia) via Italy. The consul reminded the director of public security that recently France had allowed 600 Italian

immigrants through Nice so that they could embark on a trans-Atlantic steamer for New York, and thus, he hoped that the Italian government would show an equally generous attitude toward the 40 Gypsies who were returning to Bosnia. In other words, he seemed to offer a *quid pro quo* to the Italian government: if you let our unwanted Gypsies pass, then we will allow your unwanted Gypsies (and poor Italians!) to pass. He suggested that they traverse Italian territory via rail, under proper supervision of the authorities.³⁵

The tensions between liberal universalism and nationalism are clearly exposed here: under a liberal bureaucratic state, individuals, even of “foreign” nationalities, should be allowed to move freely through neighboring countries with proper documentation. As Andreas Fahrmeir points out, the freedom was a class-based one, with the wealthiest members of society having the greatest access to mobility. As he also points out, however, passports were rather ineffective at establishing individual identity, and this is a recurring theme in the criminalization and categorization of Gypsy populations.³⁶ When executive authorities were dealing with Gypsies, a “state of exception” allowed by the public security law’s clause on the expulsion of “dangerous foreigners,” applied. The “state of exception” goes beyond controlling illegal migrants through expulsion, it strips Gypsies of all rights vis-à-vis any nation-state: a much more complicated situation, and one much more difficult to overcome. They were not permitted on any territory, and were not allowed the right to passage on public forms of transportation, regardless of the validity of their documentation. Even in cases where their nationality was proven, the fact of their Gypsy identity trumped national identity, and excluded them from the regular workings of diplomacy and the regime of the passport. Gypsies were shuffled back and forth across borders by anxious executive officials who did not want them as part of their national community. Like the figure of the *homo sacer*, they belonged to no one, and lived outside of the normal order of things. Their treatment, however, was not technically *illegal* because it did not openly violate any laws and their treatment was within the powers granted to the executive authorities. The norms of the modern bureaucratic state allowed for a group to be placed outside of the law and treated arbitrarily, through the mechanism of the state of exception. The project of building a national community targeted Gypsies as a group to exclude, and they thus became the target of executive authorities. Since Italy, in this case, had no specific anti-Gypsy laws, their treatment of Gypsies was based on the very arbitrariness allowed by the public security law’s provisions regarding dangerous foreigners.

The lack of legislation and definition of all Gypsies as “foreign” also allowed Italian officials to maintain the policy that Italian Gypsies did not exist, despite the regular appearance of cases to the contrary. By 1908, pressure from above on regional and local officials had begun to have its effect. (Foreign) Gypsies were arrested for “reasons of public security” alone, and expelled on that basis, without even the suspicion of a crime. For example, Giustina Rak was arrested by public security officials in Udine merely for being a Gypsy: she was neither accused of nor convicted of a crime, but was nonetheless expelled to Austria.³⁷ In fact, by 1909, the interior ministry had pre-printed form letters for the expulsion of Gypsies from the Kingdom, demonstrating the growing efficacy of the central government in enforcing the policies it had first started to formulate in the late 19th century. The form has as its subject, “caravan of Gypsies” and was addressed to the prefect of the region. The Gypsies named in the subject line were described as a “potential danger for public security” and therefore were to be expelled from the Kingdom. The form then instructed the prefect to issue the necessary decree of expulsion, but to not give the decree to the group (so as to prevent them from possessing any form of identification). He was to instruct them that if they contravened the expulsion they would be subject to criminal prosecution as outlined in article 91 of the public security law. The prefect then had the responsibility to determine the group’s point of departure from Italy, and provide them with the “briefest itinerary” to reach that point, then let them proceed on their own to complete each stage of the journey “without, however, remaining in any location along the route for longer than is necessary, and notifying them that they have to leave the Kingdom without interference from our authorities and at their own risk and danger.” The authorities in the areas which the Gypsies would pass through were supposed to be notified in advance, so they could exercise the “necessary vigilance” and the prefect of the province where they were going to cross the border was supposed to ensure that they exited the Kingdom.³⁸

The pre-printed form letter revealed a subtle evolution in the process of denationalizing Gypsies. First, the logic for expulsion was no longer that they *actually* posed a threat to public security, instead they were described as a “potential” threat, clearly a shift in the positivist direction: the public security law had been stretched even further to accommodate the nationalist project. The vague sense that Gypsies posed a “potential” danger basically meant that they could be arrested on sight. If a public security guard saw them and classified them as a Gypsy, he was supposed to arrest them, and the prefect was supposed to

expel them. Second, the Gypsies were not to be given any identifying information, which might serve to legitimize their presence along the exit route, and give them a reason to remain. In an age when legibility had grown increasingly important to the national bureaucratic state, the Gypsies were prevented from accessing the tools of legibility, stripping them of the protections offered by the state. Third, the public security law served as a double bludgeon against the targeted population: not only did it allow the executive authorities to arrest Gypsies without reason, it allowed them to sentence them to jail time if they were caught in the country after a previous expulsion. Conveniently, the criminalization of Gypsies could take place without suspicion of a crime. The logic of being simultaneously inside and outside of the law was evident here: the executive authorities were given the power to interpret a broad law, and they chose to interpret it in a fashion that allowed them to single out Gypsies for persecution – which constituted a violation of the spirit of liberal universalism and equality before the law. Some Gypsies were able to challenge this “exceptional” treatment, like the Lucchesi and Bosco group claiming Montenegrin origin mentioned before, by protesting their arbitrary treatment in a court of law. As time passed, however, this option became less viable as executive authorities moved more efficiently to carry out instructions: a pre-printed form, which did not require judicial review or a confirmation of the Gypsies’ identity, made it considerably easier for regional and local authorities to rid themselves of Gypsies. For example, the lazy mayor of Zinasco, or the “aged” assessor in Rivalta Bormida, could just as easily fill out a pre-printed form and send it to the prefect as they could issue a traveling trade permit. Italian bureaucracy had become more efficient and expansive, which allowed for better execution of the plan to rid Italy of the Gypsies.

The flip side of the process of “foreignization” of Gypsy populations was the nationalization of certain populations on the margins: those who had valid claims to Italian birth or nationality, or had no discernible national identity other than Italian, could sometimes avoid the cycle of expulsion outlined above. They could also be defined as Italians, then later kicked out of that category, particularly when pressures on the national government from below increased.

In the case of the French Dodors arrested in Alessandria in 1895, the simultaneous processes of nationalization and foreignization were at work.³⁹ The Dodors, French citizens with legitimate passports, were expelled from Italy on two occasions, the second after they had committed no crime. Another Gypsy arrested in connection with the same case,

Giuseppe Ferrari, while also labeled as a Gypsy by the authorities, was not expelled since the authorities were able to procure his Italian birth certificate and his nationality was undisputed. When Italian Gypsies could prove their nationality beyond a reasonable doubt, they gave the lie to the official position that there were no Italian Gypsies, and also forced the government to accept them as travelers (*girovaghi*), which earned them at least temporary protection from arbitrary expulsion. Ferrari was a verifiable Italian, and thus he was (at least temporarily) awarded the protection of the state. However, it is important to note that one of the government's other policies was to limit the amount of documentation handed out to traveling groups, and as the 19th century gave way to the 20th, there were fewer Gypsies who could prove their Italian nationality beyond a doubt, and thus they were "foreignized." Yet, some groups, particularly many Sinti from Piedmont, were able to move out of the category of *zingari* and into the slightly more respectable one of *girovaghi*.

In 1901, a group labeled as Gypsies by authorities were arrested in the province of Alessandria for "violence and armed threats" in the municipality of Rivarone, where they had allegedly "threatened the peaceful citizens with long knives, impeding them from passage on the public streets, and moreover resisting the invitation to leave the town by throwing rocks, and firing a gun at the population." All of the members of the group were convicted and received up to six months jail time.⁴⁰ The case proved to be particularly interesting not just because it was clearly a case of Italian Gypsies, a supposed contradiction in terms, but because it directly involved local officials and illustrated the degree of fear local people often exhibited toward Gypsy populations. That fear in turn led, in the case, to a riot of the townspeople against the group. The majority of the group gave their surname as Lucchesi, but it also included a single member named Boriotti.

In the official trial record, the group was referred to as Italian travelers, *girovaghi*, yet in the testimony of those involved, the men are repeatedly labeled as Gypsies. In their own testimonies they call themselves *girovaghi* or traveling musicians. They also all tell a very consistent story in which they were chased from the town by a mob of angry townspeople after they had had an argument over the bill in the local *trattoria*. Each of the defendants in the case had valid internal Italian passports, and all except one had been born in Italy. While their story was remarkably consistent, that of the witnesses changed repeatedly, and every one of the witnesses referred to them as *zingari*. Most of the Gypsies had short criminal histories, mainly consisting of minor theft

or evasion of military service. The authorities were able to locate birth certificates for all of the men, and thus they were able to remain in Italy after they had served out their criminal penalties.⁴¹ The case is a strong testament to the protections offered by the bureaucratic state for those tied to it as citizens, even if they were labeled as Gypsies. Italian executive officials could not expel documented Italians through the public security law and remain within the norms of the state. However, this violated their official policy of ridding Italy of Gypsy populations, so in effect, they carried out a bureaucratic sleight of hand and categorized Italian Gypsies as *girovaghi*. However, as this case makes clear, local populations often did not change their perceptions of a particular group based on what regional or national authorities said, and in times of economic or social pressure on local populations, an identity as a Gypsy could lead to severe consequences. The brawl in Rivarone attested to the fact that moving a group of Gypsies into the category of *girovaghi* did not mean a reduction in the local prejudice or violence against them. A division therefore existed between national and regional attitudes and local practices regarding Gypsies. On a local level, an Italian Gypsy was a Gypsy, not a fellow member of the national community. The formal norms of the state, however, tied the hands of the regional and national authorities – they could not formally exclude legally documented nationals from the state without violating those norms. They could, and did, exclude them through the process of criminalization and imprisonment, but expulsion was more difficult.

In a 1908 criminal case that went to the Turin appeals court, a family of *girovaghi* was arrested for poultry theft. The last names of the families were LaForet, already mentioned above in a case from 1860, DeLorie, DeBart, and Carzaghi. LaForet was and continues to be a last name common among Piedmont Sinti. The arrest, in all likelihood, was of a group of Sinti who had settled in Piedmont, yet in the official case file they are seldom referred to as Gypsies. Ricardo Carzaghi's birth certificate was issued in the community of Grana, part of the province of Alessandria, in 1892. His father was listed as Giovanni Fortunato Carzaghi, of the profession "comedian" and his mother was listed as a Rosa Laforè, whose profession was listed as "an actress in the Passion of our Lord." When authorities requested further information about the family from Grana, they were told that since the parents were *girovaghi*, the local community was not familiar with them. The mayor of Piscina, in the province of Turin, the town where Rosa Laforet had been born, when asked about her background, responded that "she does not have a fixed residence in this municipality because she is a *girovaga*; but during her brief and

rare appearances here she never gave cause for complaint . . . on the part of the local authorities.”⁴² The mayor of Caluso, province of Ivrea, the birthplace of another member of the group, Pietro Laforet, responded that he could not attest to anything other than the birth of the aforesaid individual since “he was born in Caluso coincidentally, belonging to a family of Gypsies.”⁴³ The slippage between *girovaghi* and *zingari* as terms used to refer to groups of northern Italian Sinti makes the challenge the government faced in categorizing Italian Gypsies very clear. Gypsies were undesirable elements, and they were, by definition, non-national. Thus, when, a group that would normally be labeled as Gypsies but could nonetheless claim Italian nationality were arrested or otherwise came into contact with executive authorities, there was no clear language with which to describe them. Authorities usually had no other choice but to admit to their Italian nationality, but shift them out of the Gypsy category into the broader classification of *girovaghi*. This did not mean, however, that they were not criminalized and persecuted, but it did prevent them from being pushed *outside* of the bureaucratic state. Locally, representatives of the executive, like mayors, prefects, or police forces, treated these people as undesirable outsiders by criminalizing them. However, higher level authorities did not treat them like (foreign) Gypsies and expel them.

In a 1909 report from the public security office of Terra di Lavoro regarding a fight between “Gypsies,” the local public security official stated that “several groups of *zingari*, all of them Italians, *girovaghi* and animal merchants” had gathered at a fair and a fight had ensued. The above line had been underlined by a public security official in Rome reading the correspondence, and in the margin, where the local official had written the topic of the letter (“Fight among *zingari*”), the Roman official had underlined the word *zingari* and written in next to it “*vagabondi Italiani*.”⁴⁴ Here, the Rome official confirmed the differentiation of the categories of Gypsies (assumed to be non-nationals) and Italians who locals identified as Gypsies. The local definition of the Gypsy was broader and included those who were technically nationals, but not locals – *forestieri*, not *stranieri*. In a nationalizing state with strong local identities, local inhabitants viewed anyone coming through their town as a “stranger,” and were not necessarily concerned with their Italian nationality. In the case of Gypsies, locals labeled them as such whether or not they were Italian nationals, and public security officials treated them that way. Regional prefects and national authorities could not do so, however, since their policy assumed the “foreign” status of the Gypsy. The differentiation, however, put pressure

on national authorities to do something about these “loophole” Gypsies who remained in Italy as an increasingly criminalized class. In response, local municipal authorities started to apply the state of exception to their own national citizens through the process of foreignization, and the peak of this process occurred in the expulsions of 1910 and 1911, discussed in Chapter 5.

How, then, was the executive strategy of criminalizing and excluding Gypsies different, if at all, from its strategy regarding other “undesirable” citizens? People labeled as Gypsies were certainly a minority, and other groups admittedly took up more time and energy for the liberal governments to deal with. For example, Adrian Lyttleton talks about the “nuisance population” of landless *braccianti*, or rural day laborers.

Drink, disorder and unstable family ties were – with some exaggeration – believed to be as characteristic of them as of the urban proletariat. They took out their resentment in drunken abuse of their betters and they stole to keep alive. By the 1870s rural theft had become one of the main worries of landlords, second only to taxes. Policing was inadequate, and many local officials were afraid to take action. In some areas seasonal migration from the over-populated mountains aggravated the problem. A Venetian proprietor in the 1870s complained of the “swarms” of “nomads” who descended from the mountains with nothing but a stick and a handkerchief and slept out in haylofts. They lived, he said, not only by begging but by devastating the crops and fruit trees of the farms they passed. Theft naturally hit the sharecropper or small tenant even harder than the landlord. Consequently it would not be an exaggeration to say that before the 1880s the major form of overt and endemic class hostility was that between peasant farmer and day labourer.⁴⁵

In many ways, Lyttleton’s description of the *braccianti* is quite similar to the image I have presented here of executive authorities’ views of the Gypsies. In fact, it seems distinctly plausible that some of these “nomads” descending from the mountains were the Italian vagabonds the public security officials in Rome noted, who could all too easily be taken for *zingari*, and slated for expulsion. In fact, by 1909, Gypsies of demonstrable Italian nationality, who may or may not have been ethnically Roma, became a criminalized and marginalized minority who were dissolved into the large general category of undesirables labeled as *girovaghi* or *vagabondi*. The divisions between municipal authorities, regional, and national authorities meant that they had some minimal

protection from the constant cycle of expulsions faced by those without proof of Italian nationality. They were dealt with within the confines of the law: before 1865, through the criminal status of vagabondage, and after 1865 through the police tool of the *ammonizione*. *Braccianti* and the mobile poor in general faced widespread criminalization at the hands of executive authorities, and the criminalization of *vagabondi Italiani*, who might be known locally as *zingari*, through legal means was not “exceptional” behavior on the part of the Italian liberal state.

As for those who could not prove Italian nationality, they were caught up in a cycle of arrest, detention, and expulsion, and denied the most basic rights accorded to foreigners under the law. Even if they had legitimate travel papers, they were subject to expulsion for their *potential* to become dangerous, and most foreign governments were unwilling to protect them from such arbitrary policies, since they also were engaged in similar practices. Gypsies increasingly became a stateless people in the age of the passport and “nationalization” in Western Europe. The Italian government, like almost all the other governments in the region, expelled Gypsies who could not prove beyond a doubt their Italian nationality. At the same time, the central government attempted to tighten restrictions on issuing papers to Gypsies within the country, in order to make any expulsion go more smoothly. The policies were all issued and carried out on an executive level, without ever clearly defining the target population of Gypsies. The ambiguity of these policies, and the “fuzzy” image of the Gypsies described therein, caused conflicts with local authorities who were often unaware or unable to implement the national policies, and with other countries who did not want to be the recipient of Italy’s unwanted Gypsies. Executive authorities responded by making it easier for local authorities to expel Gypsies over international borders, by stretching the limits of the public security law. Their practice, however, only aggravated the international situation, sparking calls for cooperation to end the Gypsy problem. The increasing intransigence of nation-states over Gypsy policy frustrated executive level authorities, who increasingly looked to use executive power and the state of exception to rid themselves of Gypsies. Their project was, in large part, successful. It was no accident that in my trips to the Italian archives, the common response I received for my inquiries was that Gypsies did not exist in Italy in the 19th century – in many ways, they did not. Effectively, executive authorities “erased” Gypsies, either through subsuming them into an amorphous category of vagabonds and travelers, or by physically removing them from the country.

4

Executive Struggles in Germany 1870–1909

The interior ministry of the German Reich in Berlin provided few guidelines that addressed the Gypsy problem on a national level before World War I; its role was limited mainly to responding to the individual states' plans for regulating Gypsies within their borders. While there were periodic efforts to create legislation on a national scale, these never met with success in the prewar period. Instead, the development of Gypsy policy took place mostly on a regional level, generally without the participation of legislative bodies, and was centered on the states that had populations of "native" Gypsies (Alsace, Prussia) or states which touched on an international border (Alsace again, Prussia, Bavaria, Württemberg). The administrative regulations issued by the regional state authorities were much more specific and detailed than the general guidelines issued from Rome to local prefects in Italy. The regulations separated Gypsies and "those who acted like them" more sharply from the indigent traveling population. In Germany, unlike in Italy, policy grew increasingly focused on removing Gypsies' claims to German citizenship as well as nationality. As in Italy, those who "behaved like Gypsies" were, by definition, not German, yet Gypsies' lack of a historical "nation" to refer back to or identify with left them without any definite national status. Nonetheless, many of them had claims to German citizenship under the law. German executive authorities' acceptance of the existence of German Gypsies led to a bifurcation of regulations dealing with Gypsies: one set of rules applied to citizens and another to non-citizens. The unstated goal of the policy for nationals, however, seemed to be to strip the Gypsies of claims to either nationality or citizenship. It was thus more difficult for German Gypsies to be removed from their official category on a national and regional level, since there were policies directly aimed at them, unlike in Italy. Once the

label of Gypsy was applied in Germany, there was little hope of removing it, or escaping the consequences imposed by it, giving the “state of exception” a concrete form earlier in Germany than in Italy.

Foreignization, German-style

The idea of *Staatsangehörigkeit* (citizenship) in its 19th-century context has recently been widely debated in German historiography. Through the National Socialist period, *Staatsangehörigkeit* was tied to the individual federal states, and German citizenship was only conveyed through individual state belonging.¹ The concept of *Staatsangehörigkeit* denoted the

formally and legally defined membership in an abstract state. It also contained a double egalitarian component: first the equality of state-members in being subject to state power; and second, the equality of members among themselves – according to their rights and duties as members of the state – in spite of remaining differences concerning their social and legal status within society.²

Gosewinkel argues that this distinctly German notion differed from English, American and French notions of “nationality” since it was tied to “formal criteria and the state”, rather than ethnocultural concepts.³ He points out that in Germany, there was a significant contingent of German citizens with non-German nationalities – notably, Danes and Poles, and both groups also had vocal political movements actively agitating for separation from the German state in the 19th century. The same exigency did not apply somewhere like France, and fed at least some of the German state’s anxiety about the ties between nationality and citizenship, and became a driving force behind the drive for “nationalization” of citizenship.⁴ Gosewinkel’s complex and nuanced formulation of German citizenship challenges Roger Brubaker’s contention that German citizenship *was* largely based on the concept of *jus sanguinis*: a community of descent based on blood ties.⁵

During the *Kaiserreich*, *Staatsangehörigkeit* became increasingly linked to the concept and institutions of the nation-state.⁶ During the process of nationalization, residents (*Inländer*) without the status of *Staatsangehöriger* were increasingly distinguished from foreigners (*Ausländer*) and granted basic protections by the state. The foreigners were subjected to increasingly arbitrary treatment, and Gosewinkel specifically points to the “instrument of administrative expulsion” as a

primary tool in the executive's nationalization project. In the case of Gypsies, the evolving practices led authorities to push Gypsies classified as residents (*Inländer*), but not *Staatsangehöriger*, into the category of foreigner, so that they could deal with them outside of the constraints of law. Thus, the case of Gypsies challenges the contention that residents moved toward citizenship rights, and again may form an "exception" to a generalized rule.

Gypsies with claims to German *Staatsangehörigkeit* increasingly found themselves denationalized and stripped of citizenship, which placed them in an amorphous gray area. "Thus, the states of the German *Kaiserreich* practiced a sovereign right in their discretionary decision-making, which covered any economic, security, or national political consideration, just as long as it lay 'in the interest of public security, peace, and order.'"⁷ Gosewinkel's depiction of the state of exception imposed upon foreigners in Germany during the period of nationalization is almost exactly the same as Italian policy towards "dangerous foreigners" outlined in the public security law of 1865. The same mechanisms allowing for the Gypsies to be placed in the state of exception in Italy were present in Germany as well. Executive authorities were endowed with the power to single out particular groups for persecution and to effectively hold them outside of the protections of the modern bureaucratic state – with the tacit approval of those in charge of upholding its norms, the judiciary. The Gypsies became a target of this executive authority – which during the *Kaiserreich* was also applied to the better documented cases of Jews and Poles.

Executive authorities dealing with Gypsies could effectively skirt the growing legal consensus about the impropriety of expelling "nationals" (or even "residents"). Unlike the formal juridical stripping of Catholics' citizenship during the *Kulturkampf*, which Gosewinkel cites as the most extreme state measure taken outside of "physical destruction," Gypsies were rarely even granted the label of "citizen," making it easier to expel them from Germany.⁸ They never had the chance to undergo a juridical process at all – instead, the process of creating denationalized and stateless Gypsies happened outside of the law, in the state of exception provided by the law itself.

The process of "foreignization" of Gypsies was particularly pronounced in Prussia, where there historically had been attempts at forced assimilation of Gypsy populations, most notably the Gypsy colony at Friedrichslohra.⁹ Friedrich II of Prussia founded the colony in 1775 as part of an Enlightenment project inspired by Maria Theresa and Joseph II's attempts to assimilate the Gypsies of the Austro-Hungarian empire

by forcing them to settle as farmers. The colony ultimately failed by 1837, but it did leave a number of Prussian Gypsies with later claims to German citizenship (*Staatsangehörigkeit*). However, executive authorities made access to the benefits of German *Staatsangehörigkeit*, with its new tie to the nation-state, increasingly difficult to access.

In a circular issued by the Reich interior minister Puttkamer in September 1887, the problem of *Staatsangehörigkeit* and its new link to nationality was clearly outlined. Prior to issuing the circular, he had asked the regional provincial authorities to take a census of the “resident” (*inländische*) Gypsies, to explain what measures they had taken against these types of Gypsies, and to provide suggestions for how to deal with them on a national level. He stated that the reports had revealed a small number of Gypsies who could claim German citizenship based on their status as legal residents: including family members, 1054, and without them (I assume he means male family heads by this number) 240. The group constituted a problem for the local public, according to the reports. Most provinces reported to the minister that they had denied them permits for traveling professions, attempting to force them into a sedentary lifestyle. However, what was said in reports to the interior ministry did not necessarily correspond to reality. As I showed for Italy, there were considerable differences between what the national authorities wished, and what local and regional authorities actually did. If a particular population constituted a nuisance, why would a town mayor, for example, attempt to keep them around? Moreover, how was he to know who was a Gypsy and who was not? The fact that there were numerous complaints to Berlin describing the illegal issuance of permits to Gypsy families shows that the same kind of friction existed in Germany as in Italy.

In his circular, Puttkamer also pointed out that according to the reports, authorities discovered that most Gypsies who claimed German citizenship were actually “foreigners” (*Ausländer*). He argued that they might have simply been born in Prussia, or had resided there for a long period of time, or had completed military service. In fact, this is a remarkable statement, since much of recent German historiography on citizenship indicates that “for the nineteenth century, and well into the twentieth, military service was at least as important, if not more so, than either *jus sanguinis* or *jus soli* for naturalization law and practice.”¹⁰ The 1913 German citizenship law expressly allowed military service as a way to overcome the “ethnocultural” requirements for naturalization. However, as is clear from Puttkamer’s circular, the same standards did not apply to the Gypsies. Flexibility in naturalization policy as it existed

before 1913 might allow for Poles or Jews to become German national citizens, either through long-term residence or military service, but the same flexibility did not apply for those labeled as Gypsies.¹¹

Puttkamer suggested that regional and local authorities should be certain to submit Gypsies to rigorous research on their backgrounds, in order to classify them as foreigners (*Ausländer*) as often as possible. In order to receive German citizenship, individuals would have to meet the conditions of the Prussian citizenship law of 1842 or the similar Reich law of 1870, or have had Prussian citizenship prior to the enactment of those laws. In the rare case that a Gypsy could prove his or her German citizenship, the minister argued, the regional provincial authorities should do everything possible to prevent the person from receiving a traveling work permit.¹² The policy outlined in this circular was roughly the one that continued in force until the German citizenship law of 1913, and it effectively meant the end of German citizenship for many Gypsies.¹³ The assumption was that even Gypsies who had been born and lived in Germany their entire lives as “legal residents,” like the former colonists of Friedrichslohra, were “foreigners.” Removing their claims to *Staatsangehörigkeit* allowed executive authorities to deal with them as an “exception” to the legal norms that protected German nationals or residents. In turn, stripping these Gypsies of their claims to German citizenship meant that they lost national and state identities – they became not just stateless, but nation-less, *homines sacri* with no system of justice to which they could appeal.

For example, in 1890, a Potsdam official wrote to the Prussian interior ministry regarding Otto Blum, a gymnast. Blum was a resident in Adlershof, but left and returned to that locale several times throughout the year. He had been issued traveling trade permits regularly over the years. Apparently, the interior ministry had complained, since he was categorized as a Gypsy, and administrative regulations dictated that Gypsies were to be denied such permits. The local Potsdam official responded that “It was assumed and in view of his name, that he is a local resident [*Inländer*].” According to the official, Blum was born in Auras in Schleswig and had lived in Germany his entire life, having resided (*ansässig*) for some time in Beeskow. “From our side, at the time of the distribution of the permission, there was no evidence that would lead us to assume that Blum was a Gypsy....”¹⁴ Blum, then, despite clearly possessing “legal resident” status, was denied a basic right that was, as Gosewinkel argued, even available to legally documented foreigners: the freedom of movement. The simple fact of being a Gypsy meant not only that Blum was denied his rights as a resident, but also

that he lost his claims on citizenship. He lost his status through a simple exchange between high-ranking executive officials. Blum's loss of the traveling trade permit meant the loss of his livelihood; the loss of his "legal residency" meant he could make no claims on the state when he became destitute. The consequences of the nationalization of state belonging were dire indeed for many Gypsies: someone like Blum had no one to appeal to, because he had no nationality and no citizenship. He became a *homo sacer*. At the same time, however, this communication made clear that there was considerable confusion on the part of local officials as to *how* exactly they were supposed to differentiate Gypsies from other Germans: the same problem faced by Italian officials.

In a letter dated January 8, 1892, the president of Potsdam and its environs related the names and dates of various passports that had been issued the year before to families who were apparently Gypsies. The letter was a response to Prussian administrative regulations that all legally resident Gypsies were to be denied passports. All of the families had been born in Germany, and thus the local official in charge of issuing passports had assumed that they were naturalized citizens according to the Reich law of June 1870, or that their parents had inherited *Staatsangehörigkeit* before the law had taken effect. This, of course, was exactly what interior minister Puttkamer had instructed officials not to do in his circular from 1887! The official who had issued the passports, admitted the executive official from Potsdam, had not conducted rigorous research into these families' backgrounds, and if he had done so, they could have been classified as foreigners and subsequently expelled since they did not possess German citizenship. The flexibility of citizenship policy, which Gosewinkel emphasizes, could be used both to soften the ethnocultural definition of citizenship, but it also could be wielded as a stick to keep out undesirable "foreigners" and place them in a state of exception where the law no longer applied. The Potsdam official stated that the illegal passports had been taken away from the families, and the local official in charge of issuing them had been given "appropriate instructions" for future cases. The official, however, pointed out that he could not yet expel the Gypsies as foreigners, since they presently had a long-standing residency in Weissensee, and had fulfilled all of their citizenship duties ("*staatsbürgerlichen Pflichten*"), including the payment of taxes and sending their children to school.¹⁵ The president of Potsdam had run smack into the middle of the tension between the rational norms of the bureaucratic state and the process of creating national citizenship. Legally, nothing separated these people

from German citizens, *except* the amorphous designation of “Gypsy.” That designation meant that they were “foreigners,” regardless of where they lived. The unspoken difficulty here, however, was *where* to send these people. They had no claims to any nationality other than German: “being outside, and yet belonging.”

It is not clear from the letter how the Prussian interior ministry came to define these families as Gypsies, but most likely they had been arrested in some other part of Germany and expelled back to Prussia. Another clue might have been their last names: a letter from the Prussian interior ministry in 1892 stated that people applying for traveling papers for certain professions like horse trader, circus performances and the like, should have their “family relationships closely analyzed, especially when they have a surname not common to the area. This close analysis is also not superfluous when the possession of older traveling permits is an issue.”¹⁶ Local officials did not always engage in this kind of detailed research, as the list from Potsdam indicated. Clearly, the exclusion of Gypsies from the national community was not as clear-cut an issue as the officials in Berlin asserted. The example also revealed a clear difference with Italian policy: once the label of Gypsy was applied to a particular family, it was nearly impossible to escape its consequences, whereas, by dint of the “no Italian Gypsies” policy, ethnically Romani groups in Italy might escape categorization as a Gypsy and its attendant consequences. The bifurcation of Gypsy policy between those with claims to German citizenship and those without meant that the state of exception imposed on “resident” Gypsies was established earlier in Germany, whereas the amorphousness of Italian policy delayed the complete separation of those labeled as Gypsies from the national community for some time.

The story of Karl Wiegand offers another example of the process of “foreignization” that affected Gypsies with a claim to German citizenship. Wiegand applied for a renewal of his passport in 1892, but was denied by the local government because

his ancestry [*Abstammung*] is still Gypsy. He was born on 3 January 1833 as the son of the Gypsy Johann Jacob Wiegand and his wife Amalia, born Steinbach, in the Gypsy colony at Friedrichslohra, *Kreis Nordhausen*. It was also determined that he was a ward of the local *Martinstift* in the 1830s – an institution for the betterment of morally neglected children – and that on 6 February 1859 he was married to a Gypsy, also a Steinbach, here in the Augustine church. Since then, we have no trace of his permanence in this area.

Since, from this research, the possession of current *Staatsangehörigkeit* cannot be determined without a doubt and the evidence for proof of this status, as the decree from 29 September 1887 II 10027 requires for Gypsies, is not present, I have denied the permission for the granting of the requested legitimization papers.¹⁷

Wiegand appealed the decision until it arrived at the interior ministry, and he was continually denied. He had demonstrably been born in Germany, but because he could not prove a bloodline past his father, his *Staatsangehörigkeit* was legally indeterminate. Since this was the case, he was not eligible to receive a passport (even though a “lax” official had issued him one in the past). Thus, the interior ministry in Berlin retained his expired passport and refused to issue him a new one. One can imagine Wiegand’s chagrin – he sent in his legitimate (expired) passport into the authorities for a renewal, and was denied because he was not a German citizen.

Like Otto Blum, Wiegand was completely “foreignized.” He was born and raised in Germany by parents who themselves were born in Germany – but his status as a Gypsy made executive officials reluctant to give him any standing under the law. Not only that, he was bereft of nationality altogether: no state could offer him protection against arbitrary treatment. The most he could hope for was to run into another “lax” official who might be willing to offer him a permit without researching his background first. Again, as in the Blum case, expelling Wiegand would have been nearly impossible, since he had spent his whole life in Germany, but executive authorities made it nearly impossible for him to remain. By confiscating his passport, he could not legally travel outside of Germany for business purposes, which he had done in the past. If he was caught in another country like Italy, without a valid German passport, he would be quickly expelled – and Germany would not have to take him back because he was not a German *Staatsangehöriger*. Even inside Germany he had one less document to prove his identity, which meant that the police, engaged in the process of criminalization, would have more evidence to convict him of vagabondage. Also, note that Wiegand had been taken from his parents for his education, as an attempt to “Germanize” him, yet still was not considered fully German. Wiegand’s appeals to higher and higher levels of the executive authorities show the intransigence of policies against those classified as Gypsies, and the inability of people like Wiegand to seek recourse by judicial means. Here was a man living in a state of exception, abandoned to the whims of executive power.

By 1906, the issues revolving around “legally resident” Gypsies had not yet been resolved; in fact, they had only grown more acute with time and the calls for a national solution to the problem, as opposed to merely regional ones, continued to increase. Prussia issued another circular outlining Gypsy policy for both foreign and “German” Gypsies, calling for more vigorous prosecution and surveillance of those living within the Reich and having claims to German citizenship. Policy on the issue of “foreign” Gypsies remained constant – they were to be kept out of the Reich, and in the case that they were found inside Germany, immediately expelled. The circular, however, demonstrated a further intensification of policy towards those born on Reich territory. First, as the examples above demonstrated, executive authorities were supposed to do everything possible to show that “resident” Gypsies did not have claims to German *Staatsangehörigkeit*. If the group could prove their *Staatsangehörigkeit*, then the goal, as discussed in the circular, was to make them sedentary – the clear assumption was that all Gypsies were “wandering.” Thus, issuing traveling papers for such people was to be avoided as much as possible, “neglected” Gypsy children were to be taken from their parents (a “prophylactic measure” according to the document), and they should become a target for particularly harsh prosecution and surveillance (“repressive measures”). The circular specified that no documentation certifying employment should be given to Gypsies engaged in temporary work.¹⁸ The repercussions of this kind of policy were clear: when Gypsies with claims to German citizenship were submitted to measures that obliterated those claims, it became easier and easier to push them out of the category of *Inländer* and into that of *Ausländer*. Criminalization, the loss of children, no employment records, a ban on all travel: it became increasingly difficult for Gypsies to act like “citizens,” and this very fact further reinforced the idea that Gypsies were “foreign” to the German national community. It was a vicious circle.

Christlieb Laubinger, a Gypsy according to the Berlin police and the *Zigeunerbuch*, which had been issued in 1905, applied for a traveling permit to engage in his profession of horse trading in 1909. Like Blum and Wiegand, Laubinger was denied the permit, according to the president of the police in Berlin, because he did not have a fixed residence. He, like Karl Wiegand, appealed the decision all the way to the Prussian interior ministry, and the police president wrote to the interior minister that he should deny Laubinger’s request.¹⁹ Laubinger’s lawyer had contested the denial of the permit by stating that Laubinger and his family had fixed his residence in Berlin in October 1907. He was registered with

the police, had no criminal record, and paid his taxes.²⁰ However, his request was again denied by the interior minister. Laubinger could then only practice his profession illegally, which would almost certainly lead to his arrest. The vicious circle I just described was unavoidable: Gypsies, according to the Prussian circular, were assumed to be “wandering,” and thus, authorities were supposed to “sedentarize” them. However, when a Gypsy with a claim to German citizenship showed evidence of his “sedentarization,” he was denied the right to his livelihood. The claim of executive authorities that they merely wanted to “Germanize” the “resident” Gypsies was exposed as the sham it was, in the case of both Wiegand and Laubinger. Laubinger was never going to be “Germanized,” but only pushed further and further outside of German society. Taking away Laubinger’s way of earning his living based on the mere fact that he was labeled as a Gypsy left him at the whim of the executive authority. He had gone so far as to hire a lawyer to defend himself, but the lawyer had been unable to make his case effectively, because Laubinger was already outside of the protections of the law: a German-born person who had spent his life within the confines of the national community, but was never truly inside it. Even if authorities admitted that he was an *Inländer*, their denial of his citizenship meant that he effectively lost standing in the bureaucratic state. Increasingly nationalized conceptions of citizenship, as in Italy, trumped the universalist, rationalist norms instituted by the modern state, and allowed Gypsies to be treated as an “exception” to the rule of law.

Both Gosewinkel and Brubaker seem at pains to differentiate a “good” non-exclusionary model of citizenship from a “bad” exclusive form. However, the treatment of Gypsies in Italy and Germany shows that no matter what the theoretical model of citizenship, executive authorities in both countries excluded populations whom they perceived as non-nationals. In Italy, as in Germany, the practical goal of executive policy toward the Gypsies was to “foreignize” and expel as many as possible. Authorities did this through the executive discretion offered by laws designed to target “dangerous foreigners.” Placing the category of Gypsy wholesale and unquestioningly into this group of “dangerous foreigners” violated the norm of treating individuals equally in front of the law. The lack of specific laws against Gypsies in combination with this fact made their own self-defense increasingly difficult, and designated the group as *homines sacri* who lacked any claims to nationality or citizenship, and thus could not be “at home” anywhere, but were closely tied to executive power. Their situation differed from other marginalized groups, like Socialists, who often were expelled from both

Germany and Italy under the same “dangerous foreigners” principle, but had a political movement behind them and usually somewhere to claim refuge. “Gypsies” did not: they were not wanted or even accepted anywhere, and their categorization was not based on a common identity or intragroup cohesion, but only on the whim of the executive authorities regulating them. The amorphous categorization of Gypsies and lax or contradictory enforcement in both Germany and Italy continually frustrated executive authorities. By 1910, the frustration had reached its prewar apex.

Local, Regional, and National Conflicts

Anti-Gypsy policy in Germany was largely determined at the federal state level in Germany. What the state officials wanted was not always carried out by local enforcers, as in Italy. The struggle between Bavaria and Prussia over centralized control of the Gypsy “problem” before World War I demonstrates the contours of this regional struggle and its national repercussions. The rivalry between the two states prevented the passage of a unified system of Reich control, which the German states along international borders had agreed was one of their goals.

The main source of conflict among the different German states dealing with Gypsy populations was the issue of expulsion. The question was whether or not individual states had to expel unwanted Gypsy groups over their state border (*Landesgrenzen*) or the international German border (*Reichsgrenze*). In the period before the turn of the century, many of the German states simply expelled the groups over their state borders into another *Reichsstaat*. For example, in 1871, the Bavarian interior ministry sent out a circular to the local governments reminding them of the steps to take against Gypsies. First, upon their entrance into the Bavarian state, the circular stated that they should produce a

trustworthy and complete proof of their citizenship [*Staatsangehörigkeit*] and their hometown [*Heimat*] that not only describes the head of the band but also those men, women, and children traveling with them, and in case any of these relations are not described, they should be sent over the state border [*Landesgrenze*] without further delay. Simple traveling papers which only offer information about nationality or the location of their birth are not sufficient to fulfill the requirements of proof.²¹

By sending groups of Gypsies back and forth over the regional state borders, the national government had to deal with complaints from the individual states about other states like Bavaria, which was constantly sending groups of Gypsies over their borders, unsupervised and uncontrolled. Therefore, some groups of Gypsies were getting passed between states constantly, since it was far easier for the Bavarian authorities to send a group of Gypsies to Prussia, for example, than to attempt to get them into Austria, where they might be caught, arrested, and sent back into Bavaria.

The motivation of the individual states was to rid themselves of Gypsies at the least possible expense, and the easiest way to do this was to send them into a neighboring state, and have that state do the required police research and control. The similarities with the Italian case are clear: it was reminiscent of the “aged assessor” in Rivalta Bormida who gave Gypsies permission for a traveling circus so that they would leave more quickly, or the public security official from Pavia who issued permission papers for Gypsies to travel anywhere except the province of Pavia. In Germany, the Laubinger family from Friedrichslohra, mentioned earlier, was arrested in Bavaria in 1879. The family claimed Prussian citizenship and the Bavarians wanted to send them back. The Bavarian foreign ministry communicated to Prussia that it wished to expel this group back to Prussia, but the Prussian ministry responded that neither “Karl nor Christian Laubinger possess or has ever possessed Prussian *Staatsangehörigkeit*.” The letter went on to explain that a child had been born out of wedlock in the Friedrichslohra colony by the name of Karl Laubinger, but that there was no way to know if this was the same person, and even so, the mother did not have a definitive claim to Prussian *Staatsangehörigkeit* either. Thus, the Prussian government argued that it had no reason to accept them from Bavaria.²² The case reaffirms the logic of foreignization that I described in the last section – by stripping the Laubingers of their claims to citizenship, Prussia could keep them out as soon as they left the territory. Bavaria did not have to keep them since they were not traveling legally. The actions of the authorities not only established the status of this family of Gypsies as *homines sacri*, but it set up a conflict between Prussia and Bavaria, neither of whom wanted the Laubingers, but neither of whom had the power to expel them from Germany. In Italy, Gypsies who were of dubious nationality were often “Italianized” and grouped into the general category of “travelers” or “vagabonds,” and thus escaped the state of exception, at least for a while. In Germany, the states had a different option for ridding themselves of these Gypsies in the “gray

area" between legality and citizenship: they could push them over the state border in order to get rid of them, while creating a place for them outside of the reach of the law.

The frustration of local authorities was even more evident in a letter from the local government in Landeshut to the Bavarian interior ministry in 1883. They stated that when they had arrested a group of Gypsies, in view of the "cost savings for the treasury," they had expelled most of them into Austria-Hungary. However, they had been unable to rid themselves of the Franz family, since they had claimed Prussian citizenship. They could not issue them so-called "forced" traveling papers to Prussia, because, according to the authorities, they were usually ignored, destroyed, or misused, which led to increased expenses for the local government. The letter mentioned that researching the identity of Gypsy groups was often difficult and expensive because they had false names and false papers, and that groups tended to shift members quite often. They highlighted the difficulties of expelling the Gypsies over the national border (usually the border with Austria) because the groups rarely arrived in Austria, instead choosing to sneak back in over the German border, which led to a pattern of cyclical border expulsions. The letter also alluded to the fact that the Gotha Agreement from 1851 was supposed to end this kind of cyclical expulsion, since it provided for "homeless" (*heimatlos*) individuals to be awarded provisional homes (*Heimaten*) in order to prevent their constant expulsion. The agreement, the official argued, would have led to the return of the Franz family to Bavaria, where they would doubtless prove a burden on the public and incur more costs. The letter also stated that they had planned to confiscate the children from the group and send them to an "educational institution," but that when they attempted to, the family had claimed Austro-Hungarian citizenship, instead of Prussian, and then asked to be expelled into Austria. The local officials had started to negotiate with Austria, but had a difficult time getting the Austrian government to take the family. What the local city magistrate had eventually done was to issue the Franz family (who had by now been re-identified as the Kraus family) a provisional *Heimat* (residence), to end the identification problem, which was, in his view, consonant with the Gotha Agreement. The Gotha Agreement, it should be noted here, was only applicable in Alsace and Bavaria at this point, as the other German states had abandoned its provisions for those outlined in the law on residency for welfare support purposes (*Unterstützungswohnsitz*) from June 1870.

The action had angered the regional officials in Munich for obvious reasons: the city magistrate of Traunstein had granted legal status to

this family who, in the minds of Bavarian authorities, should have been expelled. The decision was understandable from Traunstein's point of view as well – following all of the expense of attempting to expel the family and navigate the vast tangle of regulations, it probably seemed cheaper in the end to simply let the family stay there and obtain the provisional license, even if it did mean that they would then be eligible for state welfare benefits. In addition, the decision certainly seemed to be in keeping with the Gotha agreement, since the family had resided for some time in Bavaria, which would have technically made them eligible for the provisional hometown status. The interior ministry in Bavaria, however, did not agree, and punished the magistrate for his action (although the letter does not explain exactly how), and forced him to rescind the documentation he had issued.²³ It was unclear from the documents extant in the file what happened to the group after that.

The Kraus/Franz example demonstrates the same level of confusion, frustration, and lack of clarity among different levels of officialdom that was also evident in Italy. Local officials were attempting to implement the legal norms imposed by the new state, while simultaneously following the administrative regulations targeting Gypsies specifically (which violated liberal universalist legal norms upheld in the constitution). Keeping the two sets of instructions straight was certainly confusing, and the local authorities in Traunstein erred on the side of liberal universalism. Executive authorities wanted Gypsies to be treated differently than “residents” and in this case, went so far as to punish violators of this dictate. The strong regional structures of Germany made things even more confusing, as local officials struggled to understand and execute state-level instructions, and the state level authorities struggled with each other to come to an agreement about how to deal with Gypsies. The implementation of Gypsy policy was not only a matter of creating an imagined national community, but in the German case, regional pride also proved to be a significant factor.²⁴

By the turn of the century, these regional conflicts over Gypsies had garnered attention in the Reichstag. In the Reichstag sessions of 1905–6, 1907, 1909–10, and 1912, as well as the *Bundesrat* session of 1885, representatives raised the issue of Gypsies, and the resolutions passed during these sessions generally aimed at getting the different state authorities to work together to solve the Gypsy problem and to forbid the “movement of Gypsies in bands.” None of the resolutions were taken up and proposed as legislation by the Chancellor. The closest that the individual states in the Reich came to any sort of agreement about dealing with the Gypsies in a unified manner was a conference held in 1911, the

subject of Chapter 5. The state structure of Germany made the creation of legislation dealing with Gypsies difficult, and thus each state had its own administrative regulations, which led to confusion, problems and a constant shuffling of Gypsy populations.

The Tensions between Liberalism and Nationalism: The Debate over Freedom of Movement

Historians argue over the extent to which the *Kaiserreich* could be identified as “liberal” in scope. Yet, in regard to issues of economic freedom and the equality of citizens before the law, the *Kaiserreich* clearly expressed liberal ideas.²⁵ The legal norms of the state were designed to apply to all citizens and residents of the country equally, and upon the breaking of that law, all citizens and residents were supposed to have access to the adjudicators of that law. Yet, as I stressed in chapter one, the universal individual imagined in the rationalist norms of the modern state conflicted with the project of creating a national community. In both Italy and Germany, the conflict was resolved by interpreting the “universal” as the national citizen, and conceptualizing those who did not meet that ideal as “dangerous foreigners” who constituted “exceptions” to the norm. In Germany, one of the liberal policies that highlighted this process best was the conflict over the provision in the German trade law concerning freedom of movement (*Freizügigkeit*).

Before the unification of Germany, the North German Confederation had loosened some earlier restrictions on freedom of movement. After the unification of the Reich, these trade regulations were extended throughout the country, and at least in the case of Bavaria, a policy that was supposed to have benefits for the economy brought the additional unintended consequence of allowing undesirable populations like Gypsies more freedom of movement. Since both foreigners and German nationals with valid identification papers and valid business were supposedly guaranteed the right to move within Germany, surveilling, detaining, and arresting Gypsies without a valid reason became a tricky proposition. In a meeting in Berlin in 1909, various Reich and Prussian officials discussed this legal situation. The question arose as to whether “a Prussian Gendarme could escort a Gypsy, who was in possession of a valid traveling trade permit, to the territory of Gotha and force him to register himself with the neighboring police authorities, so that these authorities could take over the escort.”²⁶ The officials agreed that this was indeed a difficult situation, especially if the Gypsies in question had legal papers, and had committed no crime, since Reich laws

did not permit police accompaniment of them. Indeed, the trade ordinances provided for their freedom of movement, thus stymying Reich and regional officials in their attempts to create Reich-wide control of the population.

In Bavaria, local officials suggested on several occasions that Bavaria should pass legislation forbidding “traveling in hordes” in order to rein in Gypsy populations. After a particularly frustrating experience in 1884 with a group of Gypsies whose nationality they could not determine, officials in Schwaben und Neuburg suggested that all Gypsies be automatically classified as foreign, which would allow Bavaria to expel them automatically. The suggestion, of course, was exactly the substance of Italian policy. However, the Bavarian interior ministry responded by stating that this would be a violation of the law on freedom of movement because nationals, even of another country, with valid papers, must be allowed to move freely.²⁷ Here, the tension between liberal universalism and national citizenship emerged clearly: to write laws specifically barring Gypsies from the legal rights enjoyed by both foreigners and nationals would have been a violation of the liberal universalist norms of the bureaucratic state, so instead, officials worked around the law using powers allotted to the executive. They could claim to allow freedom of movement, while in the “national” interest treating Gypsies as an “excepted” category of foreigners.

In a similar vein, the interior minister in Munich wrote to the chancellor of the Reich in 1892 with a suggestion from the local officials in New Ulm making the issuance of traveling trade permits to all German-born Gypsies illegal, issuing them a permanent home location, and forcing them to live sedentary lifestyles and engage either in farming or a trade. As I demonstrated in the last section, the administrative regulations already in place basically forbade the issuance of traveling trade permits to Gypsies, and the “sedentarization” of Gypsies was an unreachable goal, since executive authorities never viewed Gypsies as Germans. Not surprisingly, the Munich interior minister disagreed with the suggestions, arguing that the “forceful detention” of Gypsies with claims to German citizenship would violate their “right to freedom of movement and permanence” and that forced sedentarization would overwhelm the police and incur very high costs.²⁸ In practice, executive officials proved more than willing to violate the right to freedom of movement, but they clearly realized that enshrining this restriction meant that they would lose their freedom to “foreignize” Gypsies with claims to German nationality without judicial interference. Legislating anti-Gypsy measures meant drawing Gypsies into the checks offered by the judicial

system of the state. Holding them in a state of exception allowed them to argue that they were acting in the “national interest” against a group of “dangerous foreigners.” Very much like the interior minister of Italy, Giolitti, the Bavarian interior minister argued that existing laws were sufficient to deal with the Gypsy problem. Those laws allowed for the exception which gave executive authorities a free hand over Gypsies.

The tension between regional and local officials led to frustration for both alike. Local officials often wanted a definitive solution to the problem, which they often viewed as a legislative one, while regional authorities refused to provide one, instead issuing constant “reminders” of administrative regulations against the Gypsies. For example, in a 1902 circular to Bavarian local governments, the state interior ministry reminded them of previous circulars outlining the procedures to follow when confronted with Gypsy populations. These measures included refusing “resident” (*inländische*) Gypsies traveling trade permits as often as possible *without* violating the freedom of movement clause in the trade ordinances, and the circular stipulated that when they were absolutely unable to deny Gypsies the requisite permits, the label of “*Zigeuner*” should appear on their papers. Clearly, this legal measure was a backdoor way for police to know who was a “Gypsy” and to prosecute them with special vigor, which would then allow the authorities to legally deny the permit in the future. Legally resident Gypsies with their documents in order, by law, had to be treated equally under the law: executive officials were reluctant to depart from that stricture. Thus, they devised ways around the legislative restrictions placed on them by moving Gypsies into a category outside of the law. It was a tight line to walk, and it is understandable that conflict occurred with local officials frustrated with what they no doubt viewed as bureaucratic doublespeak. Yet, that doublespeak served the important purpose of overcoming the tensions between liberal universalism and national citizenship by creating a state of exception for Gypsy populations.

The liberal universalist ideas behind the freedom of movement laws occasionally won out over nationalist concerns, especially where economic considerations were concerned. For example, the local government in Mittelfranken wrote to the Bavarian interior ministry in 1906, explaining that Gypsies had been enlisted to help harvest hops in the area for several years. The official explained that the job market had tightened, so that they could not hire only the locals to do the work. They had been forced to justify their behavior to the interior ministry, who wrote to them in response to local complaints about the presence of the Gypsies. The Mittelfranken officials argued that their actions were

perfectly legal, since they were only employing Gypsies without “special danger to public security.” “The number of unemployed persons turning up during the hops harvest is decreasing as a completely natural consequence of the strong demand for wage workers. In comparison to these economic conditions, keeping about one hundred Gypsies away does not play a significant role.” In other words, despite the complaint lodged by the citizens, the local government saw no reason to change its practice in the interest of a tight market for seasonal workers.²⁹ The economic interest of increasing hops production outweighed local citizens’ complaints about Gypsies in this case. Here, Mittelfranken officials saw no reason to take away Gypsies’ right to labor as long as they posed no danger to public security, especially in light of economic circumstances that required a cheap labor force. As in Italy, executive power could be arbitrary, including some while excluding others. Here, economic considerations made it possible for Gypsies to survive in a niche economy, but it is easy to imagine that in an economic downturn these same Gypsies might suddenly become a “danger to public security” and find themselves expelled. Gypsies were supposed to be singled out and treated differently from everyone else, and local officials who did not treat Gypsies as the exception were forced to justify their actions in the face of local prejudice.

The above example provides evidence for the increasingly participatory nature of the German state. Gosewinkel argues that the nationalization of state belonging during the *Kaiserreich* went hand in hand with increased participation in the state for those deemed “nationals.” In the case of Gypsies, public prejudice only served to reinforce the image of the “foreign” Gypsy and provided further justification for the executive authorities’ decision to place Gypsies in a state of exception. Most of the Bavarian interior ministry correspondence and circulars regarding Gypsies were directly linked to some kind of public pressure from below, showing a rather surprising degree of responsiveness. The Bavarian interior ministry filed press clippings regarding the appearance of Gypsies throughout the state, and they would almost immediately respond to the articles by sending a letter to the local government where the Gypsy incident had taken place, demanding an explanation.³⁰ Local governments, in turn, were quick to respond to Munich, explaining why the Gypsies had been present and exactly how they had been dealt with.

The pressure from below to “do something” about Gypsies, as well as the inability of available laws to “solve” the problem were evident in debates from the Bavarian Chamber of Deputies around the turn of the century. The interior ministry constantly proclaimed that progress

had been made in controlling Gypsies, but in 1889 Wolfgang Wagner (speaking from the right of the chamber) complained that the state was “powerless” against them. His rhetoric was remarkable:

On 6 August, gentlemen, my town was graced with the presence of a 38 member Gypsy band, that I could not look at very easily, since their children were half or completely naked, even ten and twelve year old girls were running around completely naked,

(Oho! From the left)

female furies, who acted as if they had come up from hell. Their appearance was bold, nasty, immoral, and dangerous for security.... these female furies threw themselves in the most horrible and bold way against the gentlemen officers, so that the gendarmes had to be called. They discovered that the band was homeless and lacked legal documentation. They were then arrested by the military and sent to the local administrative office [*Bezirksamt*] in Ebersberg.

At that time, it was revealed that they had also forced their way into a farmhouse, where a woman was alone. They grabbed her by the neck, throttled her and threatened her, stating that if she did not give them what they wanted, they would kill her. The woman could not help herself, she had to give them everything that they wanted....

After some days, the administrative officials in Ebersberg were able to expel the band to Austria. But the Austrian security police are decidedly more careful, as it seems to me, than the Bavarian. They were arrested again near Innsbruck, sent over the border to Bavaria and after a few days the entire caravan showed up in Ebersberg again.

(unrest)

So what should we do now? It was really a very difficult job for the local administrative office: the daily burdensome interrogations, the time consuming research abroad, the surveillance of these people, who were interned in a gravel pit.³¹ Now, gentlemen, where was our success? After five weeks, the government advised that the administrative office in Ebersberg should act to remove the Gypsies from their locality. So the officials in Ebersberg brought the Gypsies back to my town, where they were arrested. Luckily, their presence was signaled ahead of time; the fire department received them, transported them to the border with Rosenheim, and then set them free....

He then described another band that had been shuffled around in a similar way, because no one knew what to do about them. He cited the case of the *Redemptoristen*, a Catholic missionary organization, who had been expelled from Bavaria because of the *Kulturkampf*, and pointed out the irony of a government who would expel them but do nothing to get rid of these Gypsies. He finished his speech:

Should another band that cannot be expelled over the national border once again enter into this *Land*, the adults should be sent to workhouses and the children to institutions. With these bands, it is certainly easy to find a legal reason to put them in these places. And should this process incur expenses, even if it should incur great expense, every member of this chamber should be happy to agree that such expenses should be borne; since this only serves the good of the people. Only through such measures can the *Land* be freed from such a nuisance.

(Bravo! From the right).

The Bavarian minister of state, von Feilitzsch, who was generally a supporter of the liberal *Freisinnige* party, responded by agreeing that the appearance of a group of Gypsies was always a problem for the local people, and in some cases the town could not be rid of them. The difficulty arose when these groups hid their legitimation papers, or had none, and the authorities could not expel them until they determined their nationality. The research required a lot of time and paperwork, according to the minister, and the consequence was that these “homeless” bands had to be cared for with the funds of the Bavarian state. He stated that this method of determining origin had to be avoided whenever possible because of the expense, and instead policy had to be focused on preventing their entrance and making their lives as difficult as possible by putting them in workhouses, criminalizing them, and interning them for long periods of time. He hoped these policies would keep them from coming back to Bavaria. He told the members that there was not much else they could do for those Gypsies born in Germany.³²

The Bavarian chamber debate highlighted the tension between local and regional officials, as well as legislative and executive officials. First, local communities were frustrated by the inefficiency of the “state of exception” – authorities were not always successful at foreignizing and expelling groups of Gypsies, particularly since they often developed

ways to resist their treatment, especially by utilizing what Scott calls a “vague and shape-shifting identity.”³³ Because the state of exception went around the law, it tended to deal with those Gypsies that had the strongest claims to German citizenship more leniently, since they were harder to foreignize. Local officials and legislators wanted to find a solution to this problem that would make the persecution of the Gypsies explicitly legal, like the *Kulturkampf* and the anti-Socialist laws had done in the 19th century. Executive officials consistently denied their requests. They knew from experience that cases involving Gypsies, especially those born in Germany, tended to be highly complex. Laws might limit their sphere of action in unexpected ways by defining Gypsies in a certain way or placing jurists in the position of resolving the tensions between the liberal universalist norms of the bureaucratic state and discriminatory policies contained in legislation.

The debate also illustrated the gendered nature of Gypsy images in Germany. The image was slightly different than the one in Italy, where Gypsy women were viewed as both dangerous seductresses *and* objects of pity. Here, we see the fear of Gypsy women borne out by the image of female “hellions” living in flagrant violation of the sexual norms of the good bourgeois woman. It does not seem accidental that the anecdote the deputy chose pits the “bad” Gypsy woman against the “good” German woman alone in her house. Gypsy women failed to live up to the norms of liberal universalism in two ways: as women in a nation-state where the citizen was conceived of as male, and as Gypsies, who were assumed to be “foreign.”

Liberal universalism came into conflict with the nationalist goals of executive authorities, and this tension was resolved in favor of the nationalist goal of excluding Gypsies from the German national body. However, achieving the goal required going around the law in ways that could often prove inefficient to local officials implementing administrative regulations on the ground, and causing conflict. Certain liberal policies, like the right to freedom of movement, brought the contours of this tension into sharp relief, forcing local officials to choose between the norms of the state and the state of exception for Gypsies.

Race, Citizenship, and Gypsies

Questions of Gypsy “blood” were rarely raised in Italian discussions of Gypsies. Yet, the process of creating a category with immutable characteristics was a step in the process of racialization. In Germany, the language used by officials discussing anti-Gypsy policies employed more

racialized imagery. The process of singling out Gypsies as a category of exception in both nation-states certainly paved the way for a racialized understanding of Gypsy populations as fundamentally different from the nationalist imaginings of what constituted a German or an Italian.

Etienne Balibar makes the argument that racism and nationalism are inseparable partners: "... the organization of nationalism into individual political movements inevitably has racism underlying it."³⁴ Even further, he argues that societies where racism develops are

supposed to be "egalitarian" societies, in other words, societies which (officially) disregard status differences between individuals ... in other words, it is not the modern state which is "egalitarian" but the modern (nationalist) nation-state, this equality having as its internal and external limits the national community and, as its essential content, the acts which signify it directly (particularly universal suffrage and political "citizenship"). It is, first and foremost, an equality in respect of nationality.³⁵

The nationalization of the German and Italian states at the end of the 19th century led to the racialization of Gypsy populations over time, as a justification for their exclusion from the national community. The liberal universalist norms of the modern bureaucratic state conflicted with nationalist goals, which, as Balibar argues, were inseparable from racist goals. My argument thus far has focused on these tensions between liberalism and national citizenship, yet, in the German context, the racial implications of this tension became apparent by the turn of the century, and I wish to point out how race entered into the resolution of the tensions between liberalism and national citizenship by executive authorities.

In an 1893 memo from a local official in Herford to the Prussian interior ministry regarding the "Gypsy nuisance and the struggle against it," the introduction of conventional notions of racism is clear:

For a long time, it has been attempted to deprive the Gypsies of their nomadic lifestyle by sedentarization, but this could not have been very successful. It has proven impossible to transform a nomadic people into a sedentary one through administrative measures.

Viewed anthropologically, the wanderlust of the Gypsies, which is certainly a natural drive, can only be eradicated very gradually and by a long term mixing with German blood, when at all.

This kind of mixing however, seems to hold little promise because of the repulsive ways of the Gypsies.³⁶

The official presents an image of Gypsies clearly tinged by racist notions of blood, which demonstrates a shift from thinking about Gypsies as a mutable socio-cultural to a racial category. Rather than believing that Gypsies could *change* their socio-cultural habits and behaviors, he shifted to a perspective which viewed Gypsy behavior as an immutable biological trait. His idea of race is drawn from late 19th-century German anthropology, which posits the inevitability of the erasure of “primitive,” unchanging cultures by their contacts with the West: James Scott’s “barbarians” making their existence purposefully outside of the state. Mixing of populations with their civilized superiors will erase their “primitive” qualities – assimilation by blood mixing.³⁷ This kind of assimilation can either be viewed as a blessing, as this author clearly believed, or as a misfortune, since it would mean the loss of an “exotic” culture. For example, Adriano Colocci, an Italian ethnologist, rued the end of Gypsy culture and society in Europe in his work *Gli Zingari: Storia di un popolo errante* from 1889.³⁸ Colocci argued for the salvation of Gypsy populations, more as anthropological specimens than for their individual humanity. This type of anthropological racism does not disavow racial mixing, like later racial theories, yet it ascribed immutable cultural and physical characteristics to “peoples” based on blood.

Published just a few years later, the *Zigeunerbuch* disavowed the idea of racial mixing. Mixing was characterized by Dillmann as a source of mutual degradation of German and Gypsy blood in his definition of Gypsies. He asserted that “racially pure” Gypsies no longer existed, and that the Gypsies had either mixed with German blood for several generations, or had arisen “autochthonously” from European soil.³⁹ The idea that at least part of the Gypsies under discussion, according to Dillmann, arose autochthonously from German and middle European soil is significant. It seemed to point to a racialized class of the poor with European roots, as opposed to the supposedly Indic roots of the “pure” Gypsies Dillmann discussed. Later on in his introduction, Dillmann, a “Gypsiologist” of sorts who expressed a personal fascination with them, described the few remaining tribes of “genuine” Gypsies and their legitimate professions: coppersmiths and musicians. He argued, however, that the Hungarian coppersmiths had disappeared, and that the musicians were now to be found in the “concert hall” and not wandering on the roads. All the other “Gypsies,” according to

Dillmann, practiced professions only as a “cover” for their real occupations: begging, stealing, and crimes against morality. The “nuisance” of the Gypsies was fueled by their constant lying and “trickery” regarding their personal identities and legitimation papers.⁴⁰ The language Dillmann used here was strikingly similar to the language used by Interior Minister Lanza in his circular regarding the Gypsies from 1872, where he also employed the idea that Gypsy professions served merely as a cover for criminality.⁴¹

Dillmann subtly changed the terms of the debate from the Italian minister and the Prussian official writing in the late 19th century: the “mixed” Gypsy and the underclass “autochthonous” European Gypsy were the bad Gypsies, while the “genuine” or pure Gypsy was the good Gypsy. Racial mixing became a negatively coded attribute of Gypsies living in central Europe. In this passage, Dillmann racializes Gypsies, but in a confusing and subtle way for today’s reader. Racial purity was held up as a virtue, while racial mixing became a vice. Simultaneously, however, Dillmann was racializing people who he seemed to admit had no Gypsy blood whatsoever: a migrant underclass. The type of racializing employed here is clearly shaped by German and Italian positivist criminology, which viewed certain groups, including Gypsies, as irredeemable, that is, inassimilable and unreformable criminals. In anti-Gypsy legislation, these people were characterized as those who “moved around like Gypsies” (*nach Zigeunerart umherziehenden*). They bore some resemblance to that group of people Giolitti categorized as “a few hundred families who, based on the profession in which they are employed (acrobats, wanderers) necessarily lead a nomadic life, but those people are of the Italian nationality and they cannot be considered as or treated in the same manner as the *zingari*, who are people of indeterminate origins and nationality.”⁴² The significant difference here, of course, is that Italy decided to treat those people as *Italians*, even in the limited sense of that word at the time, while Germany grouped them as Gypsies who they sought to “foreignize.” The difference resulted from the different ways Germany and Italy resolved the tension between the national community and liberal universalist norms: Italy seemed more willing to assimilate at least some people who “lived like Gypsies,” while Germany proved less willing to do so.⁴³ All those within the category of Gypsy in both countries, however, were racialized by officials, who sought to endow them with immutable characteristics inheritable from generation to generation.

The examples cited here, however, are some of the few instances I found in my research which specifically mention issues of “race.” While

racialization of the category of Gypsy was certainly underway, it was couched more in terms of the differentiation of “foreigner” and “citizen” than in terms of “blood” and “heredity.” Naturally, these discourses were imbricated with one another in many ways, yet, the concept of the “state of exception” imposed on Gypsies provides perhaps a more thorough way to explore the contours of anti-Gypsy policy in the late 19th and early 20th centuries.

International Conflicts

As in Italy, German anti-Gypsy policies often led to conflict with bordering nations, since the policies often aimed at the unauthorized or illegal expulsion of groups over international borders. Like the Italians, the Germans were invited to the Swiss international conference proposed in 1909 to debate the European treatment of Gypsy populations. Like the Italians, the Germans were not enthusiastic about the idea. In the same year, the governor of Alsace-Lorraine had proposed a similar meeting, which included a proposal for assigning Gypsies permanent resident status. The Prussian officials present at a meeting to discuss the Gypsy problem in 1909 responded that such a meeting and such regulations would only disadvantage Germany. “The chairman . . . did not think it desirable to force Germany to adhere to fixed norms through an international agreement, since Germany currently has a seemingly better routine than other states to get rid of foreigners who do not please them.”⁴⁴ Like the Italians, the Germans were not willing to run the risk that an international agreement might force them to change the way they were doing things in regard to Gypsies, and they certainly were not willing to run the risk that some Gypsies might attain the status of German citizens.

However, as in Italy, officials then engaged in a continual battle with neighboring states over the citizenship of groups of Gypsies. The major flash points of conflict in Germany, and particularly Bavaria, were with Austria and Switzerland. Bavarian authorities constantly sought to sneak groups of Gypsies over the Austrian border, which often ended in irritated Austrian officials sending them right back the other way. As I mentioned in Chapter 3, in 1906, the Swiss officially closed their borders to all Gypsies, and refused to allow any Gypsy groups to travel through their territory on any means of public transport (ships or trains). On November 3, 1906, the Bavarian interior ministry warned that train and steamboat personnel had to monitor their vehicles more closely at international borders and throw out Gypsies before they

crossed into German territory. If they entered Germany, getting them out had become more difficult, since they could no longer pass through Switzerland.

For example, in December 1906 the Gypsy family Torkam arrived by steamboat in Lindau. The family possessed valid Austrian traveling papers, and Bavarian authorities attempted to send the family over the Austrian border, where they were rejected. The Bavarian police escorted the family to the train, where the Austrian customs authorities again refused to let them out of the country. The Bavarian officials complained to the foreign ministry that this was a violation of Bavarian sovereignty. The foreign ministry disagreed, stating that the decision was consonant with international agreements. The officials in Lindau complained that Austria had behaved this way on several occasions, and forwarded each case of a refusal to the Bavarian foreign ministry.

Thus, the foreign ministry sent another example on to the Austrian foreign ministry in 1908, this one regarding a Jakob Pfister.⁴⁵ Vienna responded by explaining the international laws governing the railroad connecting Switzerland, Germany, and Austria, and the international agreements governing the actions of customs officials, which explicitly permitted this type of behavior. Additionally, they argued, "The Gypsies in question could only have originated from a non-Austrian port on Lake Constance with a ship that stopped in Bregenz, and thus they did not originate their journey from Austria, and thus there is no reason to tolerate their entrance into Austria."⁴⁶ The Bavarian interior ministry sided with the Lindau officials, and complained about the foreign ministry's agreement with Austria. Ironically, as they made their case, they argued that Austria's refusal to admit the Gypsies constituted a "restriction on freedom of movement, in practice, in that those travelers with tickets were hindered from the use of the train . . ."⁴⁷ In a striking illustration of the tensions between liberal universalism and national citizenship, the Bavarian ministry found itself defending the rights of Gypsies as "universal" individuals to travel freely between countries with valid documentation. The "universal" nature of laws regulating the freedom of movement served as the basis for Bavaria's right to throw Gypsies out of the country. If the tables were turned, however, I am fairly certain that Bavaria would have invoked the "state of exception" in German law allowing executive authorities to reject "undesirable foreigners" at their border. The state of exception provided by the law allowed the Bavarian authorities to attempt to have their proverbial cake and eat it too. They could legally argue for the liberal right to freedom of movement while simultaneously arguing for the right to treat

Gypsies as an “excepted” category under the law. The argument between the Bavarian interior ministry and foreign ministry went on for years over this issue, and various minutiae of international agreements were hashed and rehashed. The actual people affected by these arguments, like Jakob Pfister and the Torkams, found themselves in a literal and figurative no-man’s land in a space outside of, but linked to the executive power of the state.

As in conflicts between local, regional, and national authorities, the amorphousness of the category of Gypsy played a role in international disputes. In the above example, the instructions of the Bavarian interior ministry to throw Gypsies off the train before they crossed into Bavaria naturally assumed that train personnel would be able to distinguish “Gypsies” from the rest of the population. In 1912, the Bavarian minister of transportation argued that:

It seems to me that a sensible application of the concept of Gypsy to individual people who are “according to their outer appearance, lifestyle, and profession (ironworkers, merchants of lead and iron wares, horse traders, tumblers, etc.) to be identified as Gypsies” will encounter great difficulties.

Requiring proof of their profession and lifestyle from people who wish to use the railroad will, as a general rule, be impossible for train personnel to execute at the ticket counter and the platform.

He complained that this left only the criteria of “outer appearance,” and stated that asking train personnel to make those kinds of snap judgments would inevitably lead to mistakes, and disgruntled customers.⁴⁸ As in the example of the hops harvest I cited above, financial considerations sometimes frustrated executive authorities’ attempts to rid the country of Gypsies. The fuzzy contours of the image of the Gypsy, in this case, made the transport minister uneasy about dealing with Gypsies as an “exceptional” case.

In another example that highlighted the problems created by the amorphous designation of the category of Gypsy, the Sozzi family was arrested in Mühldorf in Bavaria in 1905. The Sozzis, from the province of Parma, were, according to the Bavarian executive authorities, “foreign Gypsies” who should be expelled. Two members of the group were arrested for begging and cruelty to animals. Upon their arrest, they had presented the Mühldorf officials with permits for traveling professions issued in Prussia in 1905. The Bavarian officials had confiscated

the permits with the reasoning that “the permission was issued from officials outside of Bavaria.” Moreover, a passport in the possession of Luigi Sozzi issued in Borgato (Italy) in 1905 was “not legalized.” Upon further research, officials discovered that Luigi’s brother, Angelo, was of determinate Italian citizenship, and had thus legally received the traveling permit in Prussia. Luigi had been registered in Prussia as “accompanying” Angelo. Thus, the Prussians had viewed the Sozzi family as Italian citizens and not Gypsies.⁴⁹ The Italian consulate in Munich replied to the officials in Mühldorf promptly, requesting that the officials return the traveling trade permits to the Sozzis because they were necessary for the practice of their profession and there was no legally justifiable reason to hold them, which confirmed that Italy considered them to be citizens, not Gypsies.⁵⁰ Munich, however, had already sent the permits back to Prussia for verification, and thus telegraphed Berlin for further instructions. Berlin, in turn, wanted to know what had led Mühldorf to believe that these were Gypsies. Mühldorf responded that “Their outer appearance and the appearance of the group, which became a story in the local press, left the local district office [*Bezirksamt*] with no doubt that they were dealing with a band of Gypsies.” They added that various circulars issued from the Reich chancellor had indicated that traveling trade permits were to be denied to foreign Gypsies and only handed out in the rarest of circumstances to legally resident Gypsies.⁵¹ Those circulars specified that a group’s status as Gypsies could be ascertained by their professions, for example, traveling entertainers, and by their nationality. “It is a fact that Gypsies or people who travel around like Gypsies often come from Italy, and also a fact that showing bears and other wild animals is a trade favored by Gypsies.”⁵² Thus, the Sozzis met the criteria for exclusion from a permit on several fronts: their outward appearance, their profession, and their country of origin. Thus, Mühldorf complained that all German states should follow the administrative regulations with the utmost stringency, and therefore Prussia had been irresponsible in issuing the group a traveling trade permit. The family did not receive their permits back, and in all likelihood were sent back over the German border toward Italy.

The Sozzi case demonstrated the rift between Italian and German categorizations of Gypsies. The Sozzis probably fell under Giolitti’s description of families who traveled around but were still Italian citizens. When these families went abroad, however, this status became more complicated. Bavaria certainly had an argument that by the contours of the administrative regulations circulated in Germany, these

people were to be expelled as undesirable foreigners. However, the fact that they proved to be Italy's citizens made this a difficult task to implement. The importance of national citizenship to the Gypsy question cannot be underestimated: because Italy was willing to extend legal protections to the Sozzis, they were able to practice their profession and move relatively freely – at least, until they reached Bavaria. However, once they were labeled as Gypsies (and thus assumed to be *without* nationality and citizenship by the local authorities in Bavaria), all those protections were withdrawn. Categorizing a family as Gypsies meant that they suddenly vaulted into an area of legal indeterminacy, where executive authorities could violate their rights in the name of national security. Fortunately for the Sozzis, at least in Italy, they would be extended the rights of citizens. Individual nation-state's solutions to the Gypsy problem tended to clash with one another, ratcheting up international tensions and increasing the pressure on executive authorities to "do something" about the problem.

Conclusion

German and Italian executive authorities on a local, regional, and national level struggled to resolve the tensions between the liberal universalist norms of the modern bureaucratic state and the project of building a national community. Gypsies posed a particularly difficult problem for them. National authorities in Germany and regional authorities in Italy wanted to use the discretionary power available to them through laws regulating "dangerous foreigners" to classify Gypsies as foreign and expel them from their countries. Their effort to do so often resulted in the foreignization of Gypsies, which in turn led to their cyclical expulsions from one country to another. Gypsies were left destitute and exposed to executive power with little recourse to the rights guaranteed to citizens (or even foreign nationals, particularly in the case of Italy) by the judicial system. Even so, local officials in both countries often complained about the inefficacy of what seemed to them a roundabout solution. Some people who they or those living in their communities considered to be Gypsies were still there, and still "dangerous foreigners" who executive authorities seemed powerless to do anything about. They suggested legislative solutions to the problem, but executive authorities rejected those solutions, arguing, in essence, that the "state of exception" was a sufficient mode of dealing with the problem. Yet, pressure from below, created in democratizing societies,

continued to build. The pressure led executive officials to devise more creative solutions to the problem that sought to expand the powers available to them in the state of exception. Their treatment of Gypsies moved further away from the universal legal norms, and moved Gypsies closer to the status of *homines sacri*, abandoned to the arbitrary power of the sovereign.

5

Creating a State of Exception: 1910–1913

By the beginning of the 20th century, the modern nation-states of Italy and Germany had laid the groundwork for utilizing the state of exception. Executive authorities faced an increasingly challenging international situation which made expulsion more difficult, and despite their admonitions, they faced tensions and problems in implementing their policies on a local level. Those placed in the category of Gypsy felt increasingly challenged as well: they were subjected to arbitrary and extralegal arrest and detention for reasons of public security, expelled and often expropriated, forced to pay the costs of their own detention and expulsion. Their treatment hinged on their status as Gypsies, and the only way to avoid the consequences of this categorization was to escape it. Leaving the category was significantly more difficult in Germany than in Italy, since German strategy involved a more precise enumeration and documentation of Gypsy populations, while Italian policy was more *ad hoc*.

By 1910–11, the increasing frustration level of both executive authorities and the Gypsies themselves was evident, and two particular moments clearly document the movement toward the “state of exception” for authorities in both states. In Germany, officials from border areas held a *Zigeunerkonferenz* in Munich in 1911, and in Italy, the outbreak of cholera in 1910 led to harsh action against *zingari* who had been blamed for the outbreak. Both moments consolidated the position of Gypsies in the new national society that had emerged in both locales, and hardened political authorities’ stance against the Gypsies in definitive form. No longer viewed as a nuisance population, the dominant view of Gypsies by the beginning of World War I was that of “terrorists” (*Terroristen*) who “gather in bands which are dangerous to security and...move from village to village...It is a right and a public duty to

bring such bands out of this state.”¹ As the police director Dillmann elucidated in a report from 1902, “most Gypsies live from terroristic begging, stealing alcohol and tobacco, crimes in the open land, trickery, deception and theft.”² In Italy, the outbreak of cholera in 1910 in the south reinforced the idea of the “cursed Gypsy” who “arrived from the remote parts of India to implant death among our most poor and defenseless people.”³

The intensity of anti-Gypsy feeling reached a peak because of growing nationalist sentiment in Europe, the closing down of international borders, and the concomitant frustration and inability of state authorities to control the so-called problem. Indeed, in the report cited above, Alfred Dillmann yet again cited the fact that the police and the gendarmes in the countryside were powerless to stop the invasion of Gypsy families, and that local officials were often to blame for this powerlessness, since they insisted on issuing legitimizing documents to Gypsy populations without adhering to the numerous regulations forbidding these actions.⁴

Couple this kind of frustration with neighboring countries' crack-down on allowing Gypsies over their national borders, and the sense of urgency felt by Italian and German authorities was patently clear. Again, they were not alone in their anxiety. The French authorities, under considerable public pressure to take “energetic measures” against vagabondage and begging, constituted a parliamentary commission that met from 1906 to 1910. The commission proposed jail sentences and the workhouse for vagabonds, who were defined as persons without a fixed domicile or means of subsistence, without a profession and able bodied. It also required “nomads and those exercising traveling professions” to register for an identification card, the *carnet anthropométrique*. The card was to contain their criminal records, lineage, anthropometric measurements, and photograph, and was to be presented upon their entrance or exit from a town or city. The suggestions of the commission became law in 1912, with a single exception for French nomads identified as “honorable” fairground entertainers. As had already occurred informally in Germany and Italy, article 7 of the law provided for the “seizure of a Gypsy’s possessions for all infractions, including those that did not come under the framework of the 1912 law.”⁵ The end effect of the law, according to Martine Kaluszynski, was to cause some of the nomads to become sedentary, but to cause others to become more mobile, as a result of increased public hostility.⁶ French authorities attempted to “civilize” Gypsies *within* the law, but like German and Italian authorities found themselves ultimately frustrated and unsuccessful in their

attempts. Jean-Marc Berlière argues that the 1912 law marked a historical turning point in the marginalization of Gypsies in the French Republic and went along with the republic's general emphasis on security. The *carnet* also had the unexpected consequence of "solidifying the collective identity of a population" in the mode predicted by James Scott – "radical ethnogenesis" in response to government persecution of a population defined by little more than their "barbarian" status.⁷

The same kind of radical ethnogenesis was taking place in Germany and Italy at the same time, but under arguably more difficult circumstances. Because Gypsies were *outside of the law*, they were definitively excluded from the category of national citizen and existed permanently outside of the (liberal) state. In all three countries, however, the result of bureaucratic disciplinary measures against Gypsies contributed to the creation of a singular identity around which they could, in the future, unify, and argue for group rights. "Identity formation is a prerequisite for mobilization. In the absence of a self-conscious group, there is no collectivity that can interpret and act upon its situation."⁸ The state of exception imposed on Gypsies during this critical period of their history within Europe *placed* the Gypsies outside of the German and Italian nation-states; it is, however, crucial to remember that this very act of placement in essence *moved* Gypsies from the "inside" to the "outside." The very force and urgency of the moments I will describe here show that those labeled as Gypsies were already a part of the community, and the task of the nation-state was to *undo* that existence by stripping them of their claims to nationality.

The Cholera Outbreak in Italy, 1910

In the name of science and civilization, we raise a voice of protest against the Cain-like crusade, which in this era of the rhetoric of brotherhood, is being conducted against the Gypsy, unwisely, impulsively, only because of the terror of a name and because of an atavistic belief that they are the bearers of illness. The manhunt carried out this past year, especially in Apulia, against innocent Gypsy families, sequestered, raped, tortured, segregated on bridges burned by the scorching sun, left without food or assistance, was unjust – Also after the recognition of the health ministry that those wretches were immune, absolutely immune, from infection, they and their children were not only treated barbarously and hunted, but also there was the incredible spectacle in the Italian Chamber [of Deputies], which, when confronted with an imbecilic proposal made by one

of its members 'to refuse always and everywhere the Gypsies for the simple fact of being Gypsy,' did not express a single word of disgust in response to this bestiality, which sought to ban an entire population from humanity for the sole reason that they are miserable and hated.⁹

Adriano Colocci uttered these words in 1911, following the cholera outbreak in Apulia in August 1910.¹⁰ The disease of cholera was one often associated with Gypsies, so much so that in Romagna during the 1800s, the disease was known simply as "the Gypsy" (*lo zingaro*).¹¹ The cholera outbreak coincided with liberal Italy's celebration of its fiftieth anniversary, including the dedication of the monumental Vittoriano in Rome. Emilio Gentile points out that by 1911, the notion of *Italianità* embraced by the authorities had become an increasingly rigid racialized identity, what he calls "modernist nationalism."¹² By the time of the cholera outbreak, an exclusionary form of nationalism combined with a liberal government increasingly willing to exert executive authority at the expense of parliament created a situation in which those labeled as Gypsies were reaffirmed as a stateless people and conceived of as existing outside of the national body.¹³

The official response to the outbreak took place in the overall context of an Italy deeply divided between North and South. While the liberal government's approach to the north was one of relative freedom and transparency, the approach to the south displayed a continuous pattern of heavy handed "exceptionalism." The most obvious example of this long-standing pattern is the actions taken against 'brigands' in the 1860s. The situation only improved beginning in the 1890s, when Giolitti attempted to defend civil liberties and reaffirmed the status of the constitution and judicial due process.¹⁴ The response of the authorities to the outbreak in Barletta has to be viewed within the history of arbitrary and repressive government in southern Italy, itself viewed as an "exceptional space" by liberal executive authorities.

In August 1910, *La Stampa*, the major Turinese newspaper, reported in a front page headline that the epidemic had been "imported by Russian Gypsies." The article stated that "the Gypsies, who are supposedly the so-called carriers of the bacillus, seem to have carried with them an extraordinary potential for infection, even though they are completely immune from the disease."¹⁵ In fact, the interior ministry compiled a table graphically linking the arrival of the "*zingari russi*" in Trani, Barletta and Andria on August 1, 1910, with the outbreak of cholera cases beginning around August 12. The dating of the table matches the

contemporary understandings of the dormancy period of cholera, and thus was considered firm evidence of the linkage between the *zingari* and the outbreak.¹⁶

The Italian government in Rome responded to the outbreak in a manner typical of its authoritarian attitude toward the south. They immediately made Serafino Ravicini “health dictator with full emergency powers.”¹⁷ Ravicini employed coercive measures from mid-August through early September, utilizing police to remove persons suspected of infection from their homes and isolating them in state cholera wards, burning and confiscating private property and food supplies – essentially reproducing the 19th-century *cordon sanitaire* that had repeatedly proven ineffective against the spread of cholera. Ravicini noted that “the present exceptional moment explains this holy violation of the law.”¹⁸ In other words, Ravicini utilized the concept of the state of exception in order to enforce order on what was perceived, both within Italy and outside of it, as a lawless, dirty, and undisciplined place.¹⁹

It is within the concept of the *Mezzogiorno* as an “exceptional space” that the central state in Rome made the decision to utilize what one might call a “doubled” state of exception by blaming the Gypsies for the outbreak in Apulia. “A racist manhunt had begun.”²⁰ Frank Snowden calls the attacks on Gypsies an attempt to exploit “latent xenophobia,” yet by no means all of the Gypsies arrested, quarantined and expelled from Italy were foreign, at least in the traditional sense of the word.²¹ Many of those caught in this racist manhunt had justifiable *claims* to Italian citizenship, and the denial of those claims and the subsequent expulsions further cemented their statelessness.

On August 20, *La Stampa* reported that the Russian Gypsies had been isolated aboard a boat off the Adriatic coast and kept at a distance from the city, that all of their belongings had been burned, and that the authorities were “providing” for their maintenance. However, it was soon clear that “cholera had not been imported into Apulia by the Gypsies.”²² The expulsions, however, continued.

The undersecretary of the interior, Calissano, issued a circular on August 21, 1910, ordering the prefects to trace the Russian caravan’s route and to make suggestions for how to “liberate the territory from these caravans.”²³ On August 28, the Interior Minister, Luigi Luzzatti, issued an even more strongly worded circular to the Prefects of the Kingdom in which he sought to “recall attention...to my firm proposal to liberate Italy from Gypsies and to impede their entrance into the kingdom.” The minister required each of the prefects to explain what their province was doing to achieve these goals.²⁴ In October 1910, the

minister Leonardi from the Office of Public Security in Rome sent a telegram to the prefects in Piedmont and Liguria with specific dispositions outlining departure points for German and Swiss Gypsies scheduled for expulsion, and ordered the sale of most of their property to pay for their internment (evoking what the French would codify as part of the 1912 law).²⁵ When the expelled Gypsies arrived in Germany or Switzerland they were penniless and without means of sustenance, the legal definition of vagabondage. Thus, the Swiss and German authorities already had grounds, based on their administrative regulations, to expel the same families for vagabondage.

Parallel to the government's efforts to remove all Gypsies from the kingdom, it continued its coercive measures against citizens in Barletta. On September 2, 1910, the people of Barletta reacted to the police closure of the central market with anger and violence, eventually stoning a policeman to death and stabbing and killing a pharmacist.²⁶ The executive authorities had overstepped their boundaries, and in utilizing the state of exception on those they claimed as their own citizens (even second-class ones), they provoked a response. By September 3, the Interior Ministry abandoned the policy of coercion and withdrew Ravicini.²⁷ They did *not*, however, "allow the hunt for scapegoats to lapse."²⁸ In fact, the anti-Gypsy policy of the government continued well into 1911. The actions in Barletta demonstrated that southern citizens, despite their second-class status, could convince national authorities, albeit through violence, to listen to them. The state, at least in this instance, obeyed the dictates of its own universalist norms, under intense pressure from the populace. Gypsies, however, did not have any recourse in a state that did not acknowledge their belonging.

The frustration of the national authorities in regard to the Gypsies continued. By November 23, 1910, Luzzatti expressed annoyance at the slow pace of the expulsions: "Due to their rejection from other countries, it is enormously difficult to evict Gypsies from Italy. Therefore, you [the prefects] have to take personal responsibility if you allow new caravans of Gypsies to enter from anywhere, since they should, in every case, be rejected from both the land and sea borders."²⁹ The telegram alluded to a Western European crackdown on Gypsy populations, which itself was precipitated by growing national interest in the question and mutual frustration by national governments dealing with unwanted Gypsies involved in a never ending cycle of expulsions. The frustration, as Colocci noted, made its way into parliament. In November 1910, the Hon. Buccelli requested to know how the Interior Minister

intends to discipline the continual immigration of Gypsies into Italy, which provisions he intends to adopt so that they are subject to the usual norms of civic duty and hygiene in their states, and if he does not think it reasonable to follow the example of other states in impeding the entrance of the caravans into the state, since because of these, they have had to tolerate continual crimes against property, against individual liberty and the absolute inobservance of every hygienic norm.³⁰

Calissano, representing the Interior Ministry, responded that “the most rigorous provisions have been adopted” to guarantee that new caravans would not gain access and that the ones already there were removed.

Unfortunately, the investigations [into their country of origin] are not always easy, and sometimes if the choice is between protection, public security, and public health or great pity, since in these caravans there are also people whose nationality is unknown, including children, then we must above all think about protecting instead of removing them from our state. I repeat, the actions of the government could only possibly be blamed for excessive rigor...

Following this, voices in the chamber called out “It is never enough!” He then argued that no specific laws needed to be passed, and that the public security law against dangerous foreigners was adequate to control the population.³¹

Calissano’s rejection of a legislative solution revealed the tension between liberal lawmaking and national aspirations. Legislation against an entire group violated the dictates of liberal lawmaking, which required that laws be universally applicable. While the French were willing to abandon this premise, the Italians were more reluctant. One of the reasons why may have been the recognition that legislation limited the ability of the executive authorities to assert arbitrary power over those whom they labeled as Gypsies.

At the end of February, Luzzatti had capitulated to the demands of the Neapolitan *camorristi* to rescind sanitary regulations on trade to prevent the further spread of cholera. He feared a repeat of the Barletta uprising, which had spread also to Trani and Taranto.³² On March 8, Luzzatti sent another telegram to the prefects reminding them of the “absolute interdiction” against admitting “companies of Gypsies, tumblers, or similar” into the kingdom and the necessity of “forcing the exit” of those already present.³³ The telegram demonstrated his own

concerns about a resurgence of cholera and an attempt to appear competent in the face of his own capitulation – an unsuccessful tactic since the government fell shortly thereafter. The telegram was also indicative of the wide net cast during the panic of 1910–11, and the danger for those marginal groups, like “tumblers,” that moved in and out of the category of “Gypsy.”

In June 1911, the Italian Interior Minister Giolitti issued the final circular in direct response to the 1910 cholera outbreak and its aftermath. Unlike the earlier telegrams, it was stamped as “classified,” most likely because Giolitti was at that point engaged in a full-scale cover-up of a continuing cholera outbreak in Naples, and wanted there to be no chance that anyone outside of his immediate associates would find out about it.³⁴ It was addressed only to the prefects of border areas, not the entire kingdom, highlighting Giolitti’s need for secrecy, as well as his continuing concern with the “Gypsy problem.”

In spite of the fact that all of the foreign Gypsies who were living in the kingdom this past autumn were forced to leave, and the many difficulties we had to overcome in doing so, in various provinces here and there, some small groups have attempted to stop, and some prefects in the border provinces have reported the attempts of some groups to enter into Italy.

He warned that these new groups must have entered as individuals after the initial expulsion and then regrouped. He asked the prefects to continue to exercise vigilance to prevent the entrance of “undesirable foreigners” into Italy.³⁵ The telegram made clear that this was the tail end of the crackdown on the Gypsies, and that the government must have had some success in convincing the public that Italy was now free of its Gypsy problem, because of its rigorous efficacy in the fall of 1910. In a strange departure, Giolitti employed the term “foreign Gypsies,” because in 1909 he had denied the existence of Italian Gypsies, but this usage seemed to admit the existence of “Italian Gypsies.” The significant problems Italian officials encountered when attempting to expel individuals with strong claims to Italian nationality may have been the cause of the distinction. Giolitti’s telegram seemed to signal the return to the pre-1910 state of affairs: a less vigorous and more case-by-case implementation of Gypsy policy, and some degree of flexibility for the local prefects dealing with individuals or groups who were not easily labeled Gypsies – particularly individuals with claims to Italian nationality. The central government, after all, was preoccupied with several

major events: the fifty-year anniversary of the Italian state and the exposition taking place in Rome and Turin in the summer, the push for war in Libya, which began in September, and the continuing attempts to hide the large cholera outbreak in the city of Naples.

The liberal state's anti-Gypsy policies demonstrated a relative consistency over time, and the flexibility provided by the state of exception allowed executive authorities to ramp up controls in times of crisis, like the cholera outbreak, and to "live and let live" in times of other pre-occupations: "make it work" liberalism.³⁶ In 1912, the foreign ministry, in response to Austria's request for information on Italy's anti-Gypsy measures, explained that since Gypsies were not residents of the Kingdom, "the question relating to the mode of organizing the surveillance of Gypsies is much simplified." The foreign minister stated that Gypsies who were inside the Kingdom were considered to be "dangerous foreigners" under the public security law, and were arrested and removed from the country.³⁷ The language employed here mirrored similar language used by Giolitti in 1909 and even went somewhat further in admitting the pragmatic nature of the policy: the government did not have to worry about people who did not officially exist, which "simplified" its job.

The flexibility of Italian policy and its consequences is illustrated by an October 1910 case in which the Prefect of Avellino arrested a group of Gypsies with the surname of Jovanovich for "reasons of public security." The vast majority of the 32 arrested had a long history of residence in Italy and legal papers, including internal passports and permits for traveling professions. The Prefect ascertained that they were Italian *nomadi* rather than *zingari*. The interior ministry in Rome clearly suspected that the prefect was attempting to take the easy way out by avoiding the time and paperwork of expelling the group, and responded to the prefect stating that he was not to distinguish between "nomads" and "Gypsies" and the group should be treated like Gypsies. In consequence, the family was detained for months until they were finally expelled to Serbia.³⁸ Thus, early on in the wave of expulsions, Italian executive authorities were unwilling to deviate from their position that all Gypsies were by definition, foreign, even if practicality called for leniency.

Fatigue for this kind of policy making soon set in, however. For example, Angela DeRosa and Filippo Antonio Morelli were arrested in Alatri in 1912, and interior ministry officials informed the prefect that the group could be released, as they were "Italian nomads, as is clear from their names, and not true and proper Gypsies."³⁹ In October 1910, there was no distinction made between nomads and Gypsies – they were all

the same, according to interior ministry officials. In 1912, nomads could be Italian again: arbitrary, confusing, and representative of a group that was excepted from standard measures of equality under the law. As the ministry stated in its response, the surname of the group played a clear role here – rather an arbitrary distinction given the Italian-speaking populations living in Austria-Hungary and Switzerland at the time. Did a return to a more relaxed policy signal the end of the state of exception? In some sense, yes, since Gypsies with claims to Italian nationality, like the Morellis, were more likely to be offered the protection of the modern state through the mechanism of the rule of law. In another sense, however, those once or always categorized as Gypsies were always living on the brink of disaster by virtue of their link to the category. They existed as a group apart from the rest of the national body. Therefore, they could at any time be targeted for removal from their homes and livelihoods.

The 1910–1911 Italian campaign against the Gypsies had important consequences. First, and most obviously, it uprooted groups of people who made their living and their homes in Italy, usually for long periods of time. In January 1911, *La Stampa* reported that “following the dispositions given by the president of the council [of ministers] for the repatriation of the groups of Gypsies wandering in the Kingdom,” 864 Gypsies had been expelled. Only a “few groups” remained in Italy, many of them concentrated in Genoa, where they were waiting to embark on ships directed towards their “countries of origin.”⁴⁰ The expulsions also reinforced and consolidated the existence of Gypsies in a state of exception: passing specific anti-Gypsy legislation would only make state officials’ job more difficult. As Calissano argued in the chamber of deputies, the vague and amorphous category of “dangerous foreigner” was more than adequate to control the population because of its very flexibility. State officials could respond to perceived dangers or public pressure when necessary, but also kept Gypsies out of the direct reach of the checks provided by the judicial and legislative authorities. The executive could act independently in the name of public security, and remain within the letter of the law. Italian authorities did not behave this way only with Gypsies, but with brigands in the 1860s and with southerners generally perceived as “criminal populations.” However, unlike expelled brigands in the 1860s or marginalized southerners, expelled Gypsies belonged nowhere, were tolerated nowhere, and literally had no place to go.

The human effects of the state of exception were often catastrophic, particularly for families with strong claims to Italian nationality. The

Levakovich family was a victim of the increased concern and vigilance by Italian authorities, and they tenaciously resisted the efforts of the authorities to exclude them from the national body. The Interior Ministry in Rome began keeping records on the family in 1908. The four people who form the focus of the file are Orsola and Leopoldo Levakovich and Maria and Michele Levakovich, along with their children. It is difficult to be certain about the relationship between the different Levakoviches in the file, mainly because a strategy of resistance developed by many Gypsies living in Italy at the time was to take the same first names in the same family or to use more than one first name when dealing with the authorities. Nonetheless, the Levakovich family was very likely part of a group of Romani horse traders originating from Friuli, which before World War I was divided between Austria and Italy. The family thus posed a particular problem in an area already fraught with tension over Italian irredentism, a product of what Gentile terms “modernist nationalism.”⁴¹ Giuseppe Levakovich, who became an Italian citizen following his volunteer labor in Abyssinia during the fascist period, was in all likelihood a relative of the family and co-wrote an autobiography published in Italy in 1976. While he was born in Austro-Hungarian Friuli (Gorizia) before World War I, he eventually moved to Italy in search of relatives living in the province of Friuli (Udine), where the Levakoviches were known as profitable horse traders.⁴² The Levakoviches’ already marginalized status as Gypsies compounded with the contested issues of citizenship in irredentist Friuli makes their story a compelling account of how Gypsies became a stateless people.

In February 1908, Marco and Maria Levakovich were arrested in Vicenza (in the Veneto), but not convicted of any crime in the courts. After their exoneration, officials contacted Udine to determine whether they should be slated for expulsion. Udine responded that the “family name Levakovich was quite diffuse among Gypsy families largely belonging to eastern Friuli” and that without more specific information regarding their birthplace it would be impossible to determine their nationality. Officials in Rome instructed Vicenza to release the Levakoviches, but to monitor them for interactions with people who might “be able to furnish evidence for a more precise identification of the named Levakoviches.”⁴³ Rome’s decision was indicative of the direction of Italian Gypsy policy before 1910: the pragmatic solution in this case was to release the group to avoid the time and expense of expulsion proceedings for a group with legitimate claims to Italian nationality. The family continued to earn a living through horse trading and metalworking in both Italy and the Austro-Hungarian Empire. The arrest

signaled, however, a general uptick in police harassment of the family around 1908.

On March 29, 1908, in the province of Treviso (part of the Veneto), the police arrested members of the Levakovich family, including Michele, Leopoldo, Orsola, and Maria Levakovich. The group was arrested for “measures of public security because they were without means of sustenance.” Michele was described as having brown skin, and his profession was listed as “zingaro,” with marital status listed as “living with Levakovich Maria.” When asked of his origins, Michele stated:

I cannot say anything about the location of my origins. I do not remember knowing my parents, who have been dead for many years and I do not know where they died. I know that my father's name was Giovanni. I do not know my mother's name. I believe that I was born in Italy and more precisely, in the Veneto, but I cannot say precisely in which town or province, since I am not registered in any civil registry. I was always told that I had come into the world on the road, with others, *under the trees*, as generally all the Gypsies do. However, I cannot exclude that I was born abroad. On my account, I can declare that I have never been abroad and that I have always remained in the Veneto, traveling around the provinces of Vicenza, Udine, Belluno and especially in the mountains of Cadore in Bellinzona. I live in marriage with the Gypsy Maria Levakovich, and I do not remember where I met her. From our union five children were born, here and there, but always in the Veneto, and they were not registered in any civil registry.⁴⁴

The interrogator responded by stating that “his pronunciation has nothing in common with the Italian language or with the Venetian dialect and clearly demonstrates his foreign origins and how undoubtedly he belongs to the Austro-Hungarian nationality.” Clearly emerging from Michele's autobiography was a strategy of resistance: “The shorter their genealogies and histories the less they have to explain and the more they can invent on the spot.... They have no fixed history. They have no story they tell about their origins or about a promised land toward which they are headed... They are the ultimate bobbing and weaving people.”⁴⁵ The “bobbing and weaving” intentionally made ascribing a “legible” identity to the Levakoviches considerably more difficult for the authorities. Families from the Friuli region might speak Venetian dialect and might have been familiar with it, but might also have spoken native Friulian dialect, which might account for the authorities' suspicion that

this family was Austro-Hungarian. Clearly, in this instance, language served as a stand-in for ethnic identity, despite the fact that early 20th-century Italy was far from a uniform linguistic whole. The public security authorities in Conegliano, where the Levakoviches were arrested, proposed their expulsion as foreigners. The family was still in custody at the jail in Conegliano over a month later, when they requested that their young children be brought to the jail, as they were unable to support themselves independently (!).

The family's geographical origins posed a tricky problem for Italian authorities, since they were known in the region, but possessed no documents whatsoever and did not register their births in any location. Again, the lack of identifying documents could, in some sense, offer protection for the group, since it became considerably harder to dump them over the Austrian border, especially because of nationalist ire over the region, and Austrian authorities' aggravation concerning Italy's repeated attempts to sneak groups of Gypsies across the border. A complete lack of identity documents made it difficult for the authorities to do anything but let the groups go, unless they could convict them of some crime. However, it also placed the family squarely in the category of stateless people. The situation illustrated the difficulty of Gypsies themselves: they often refused state legibility schemes to maintain their way of life, but the strategy concomitantly allowed authorities to strip them of any claims to nationality, which left them outside of the protections of the law.

The files from 1908 and 1909 demonstrate that while authorities exercised vigilance, their efforts to control or expel the family were generally unsuccessful. Thus, when Leopoldo and Orsola were arrested in Vicenza in 1909 for the suspected theft of two dogs, they were exonerated for "lack of evidence" in court. The prefect wrote that both of them had declared themselves to be citizens (*cittadini*) of Italy and thus had been released without being turned over to the public security authorities.⁴⁶ In times of reduced public pressure on the authorities, the Levakoviches and other families of Gypsies with claims to Italian nationality were protected by the Italian state's adherence to the rule of law, since disproving their status as Italian citizens was nearly impossible.

In July 1909, the prefect of Udine sent a letter to the director of the public security forces in Rome requesting merit awards for three city guards. City guards were generally not well liked by the urban populace, and public security forces struggled to gain the trust of local populations.⁴⁷ A group of 40 Gypsies had camped within the city walls, and a few drunken Gypsies began to "abuse the passersby,

and entering into a business, they overpowered the owner, who had denied them the requested wine and liquor." The citizens had "justifiably" notified the local public security office, and the guards as well as some *carabinieri* arrived on the scene. They approached the apparent leader of the group, Giuseppe Levakovich, who responded to their questions by allegedly hitting one of them violently with a whip. He was eventually "reduced to impotence" by the remaining agents, but the rest of the band escaped. The official thought that the public security agents showed "courage and firmness" especially since they had continued the pursuit after being injured by the suspect, and recommended small monetary gifts for the three city guards.⁴⁸ The incident demonstrated strong police interest in Gypsy control and a rise in public concern about a Gypsy problem, as well as demonstrating the dual nature of police as both a "protective" and "oppressive" force within the bureaucratic state.

Once the cholera epidemic of 1910 had been blamed on the Gypsies by executive authorities, public pressure, demonstrated through newspaper interest and letters to the authorities, increased and the flexibility of the state of exception was more readily utilized.⁴⁹ Following the first outbreak of cholera in Barletta in August 1910, Leopoldo and Michele Levakovich were arrested in the province of Treviso, in the Veneto, and their wives, Maria and Orsola, were also detained after alleged armed threats against Francesco Hudorovich.⁵⁰ The prefect indicated that he had released the same family in 1908 because of their claims to Italian nationality. In September, the prefect reported to Rome that he had not yet released Orsola because the mayor of Vittorio had told him that she "was a danger to public security" since she was suspected of setting some fires that had happened in that city and because the "population continues to ferment against the Gypsies arrested with her."⁵¹ In all likelihood, the ferment in question was due to the cholera outbreak and the subsequent crackdown on Gypsies throughout the country. In October the public security office responded that:

despite their affirmations to the contrary, the Italian citizenship of the Gypsies Leopoldo and Michele Levakovich is not in any way apparent, according to definitive documents...and that consequently they have to be considered and treated in the same manner as other foreign Gypsies, and I authorize you to undertake their expulsion in the usual manner, issuing each one of them regular eviction decrees, explaining to them how they are applied, but without giving them the documents.⁵²

The telegram added that the prefect should instruct them as to the shortest exit route ‘at their own risk and danger’ and if it was necessary, providing them with some aid to do so. The family released in 1908 was thus scheduled for expulsion two years later. The informal expulsion proceedings suggested by the interior ministry alluded to the difficulty of expelling Gypsies with unverifiable national identities. Gypsies were required to find their own way over the border, periodically checking in with *carabinieri* along the route, finally announcing their exit at the indicated border station. Naturally, groups often failed to show up at their check-in points. The Levakoviches’ uncertain national identity made this exit route the only practical solution for the authorities.

The Levakoviches followed the instructions of the decree of expulsion and ended up in Ancona in November of 1910. The prefect reported to Rome that the steamship company chartered to “return” them to Austria-Hungary was reluctant to board them, since Austro-Hungarian authorities would likely refuse their disembarkation.⁵³ The sanitary convention signed in Paris in 1903 prescribed particular procedures which should be taken by signatory nations in the case of a declared cholera outbreak in another nation.⁵⁴ The summer 1910 outbreak blamed on the Gypsies had been well-publicized and documented, making foreign steamship companies particularly reluctant to accept Italians, and especially Gypsies. Italian authorities assured the ship company that these were not “true and proper Gypsies” since they did not possess caravans or animals, but were simply Austro-Hungarians expelled from healthy locales (i.e., not infected with cholera). The authorities informed the company that the Gypsies would be rejected if they were returned to Italy. The communication demonstrated the advantages of not codifying the category of Gypsy within the law: a family identified as Gypsies by the authorities could easily lose the label if it helped expedite their removal (an impossibility in France after 1912).

The growing reluctance of steamship companies to accept Gypsies on board had larger repercussions. For example, officials in Genoa grew frustrated with authorities in Rome, who had sent many Gypsies of uncertain nationality to the port to await expulsion. Ships departing from Naples, the other major Italian port of the time, had become increasingly suspect as carriers of cholera.⁵⁵ The prefect of Genoa expressed his frustration: “As I have repeatedly made known, there are over one hundred Gypsies here who cannot depart because of the ever growing difficulty posed by the Gypsies themselves who are reluctant to leave and by the navigation companies who obstinately refuse to receive them on board.”⁵⁶ The Levakoviches were apparently willing to embark

for Austria-Hungary, but they were rejected at the border, forcing the steamship company to retain them on board, as it had originally feared.

Other members of the Levakovich family experienced similar difficulties in 'repatriating' to Austria-Hungary. In November 1910, authorities in Venice were attempting to expel Giovanni and Giovanna Levakovich. The director of public security recommended passing the pair off as regular ship passengers, again highlighting the convenience of flexible categorization. If the prefect wished instead to expel them via land, the director warned that the authorities should keep "in mind that if they have to go to Austria via rail it would be wise to avoid direct intervention in their voyage, and they should simply give the necessary money to the Levakoviches to buy railroad tickets for themselves."⁵⁷ Hence, the expulsions continued under the flexible aegis of the "state of exception," at the complete discretion of executive authorities.

Jacopo and Tommaso Levakovich were arrested in July 1911 in the province of Pavia, and were suspected of "qualified" theft. They had been exonerated for insufficient evidence and then turned over to the public security authorities. The men had contended that they were part of the family of Gypsies from Treviso (i.e. the same as Michele, Leopoldo, Maria, and Orsola). The prefect of Udine reported to Rome that they had been rejected at the Austrian border in September 1910, had returned to Italy, had been detained in Genoa, and finally placed on a ship directed to Santos (Brazil), which departed on February 25, 1911.⁵⁸ They made the same journey as many poor Italian immigrants at the time, who felt that the relatively open immigration policies of Brazil and Argentina would allow them to make their fortunes in the open farmland in the interior of these countries. The immigrants were often manipulated by shady immigration brokers and worked in conditions resembling slavery. Many of them (so-called *golondrinas*) returned in the spring of each year (fall in the southern hemisphere) to Italy to work their own plots of land in the south.⁵⁹ Thus, it was not uncommon for a family like the Levakoviches to make their return to Italy. "Those individuals declare, not having found work in America, that they returned to the country this past spring, disembarking in Genoa, where they departed on foot and traversed the provinces of Piedmont and Lombardy, where they were arrested." The official complained that they would not reveal any more information about the rest of the family, "limiting themselves to repeating that they are Italian residents" from Codroipo, province of Udine.⁶⁰ The authorities there had no documentation of their residence. The Prefect did not know what to do with the men.

The letter explains one solution executive authorities in Rome found to their ‘Gypsy problem’ during the cholera outbreak of 1910 and afterwards: Gypsies living on the margins, in a hazy world between nationality and statelessness, were sent abroad to South American countries with liberal immigration policies. Poverty stricken southerners were manipulated by landowners wishing to exploit cheap labor in south America, and Gypsies were sent there by a government that knew they had literally no place else to go. The southerners, however, had the growing socialist party to advocate on their behalf.⁶¹ Unlike the *golondrinas*, the Levakoviches had no recourse within the state which made their existence in a “state of exception” apparent.

In December of 1911, the prefect of Como informed the director of public security in Rome that in Lecco, a caravan of eleven Gypsies headed by Michele Levakovich had been detained for “reasons of public security.” The prefect had ascertained from the School of Police Science in Rome that many members had been previously arrested in the cases cited above, including those from Conegliano, Brescia, and Treviso, and expelled “as is practiced in other analogous cases...for a foreign destination, since this is a case of individuals evidently dangerous to public security.”⁶² “Dangerous” was a strong word, given that the majority of the convictions I found for the Levakoviches in the Rome file were “threats” and small time theft. The interior ministry, in a return to the policies of 1908, ordered the release of the detained.⁶³ The Levakoviches seemed to have returned, at least temporarily, to the *de facto* status of Italian nomads.

However, the detention of a family headed by Michele Levakovich in late November of 1911 in Alessandria seems to point in another direction. The authorities also identified them as the family that had embarked for Santos, Brazil in February of 1911.⁶⁴ There are two possible explanations for this confusing situation: either the family was all traveling together when they were expelled during the cholera outbreak, and then were separated when arrested in 1911, since Alessandria and Como are not all that distant from one another, or this was a case of mistaken identity. In this case, authorities in Rome ordered the group to Genoa, where they would “embark for a foreign and distant destination,” after the sale of their caravan and possessions.⁶⁵ The two cases in relation to one another are a clear demonstration of the arbitrary treatment of a family on the margins of Italian nationality. No law protected them from expulsion, and there was no legal authority to appeal to in such an obviously unjust case, since the expulsion proceeded within the

letter of the law. The family's status depended on the whim of executive authorities.

By July of 1912, the desperate plight of those labeled as Gypsies in prewar Italy was again aptly illustrated by the Levakovich family. In Udine, Michele Levakovich, who was one of those deported to Santos in February of 1911 (and possibly again in 1912), was arrested for "aggravated begging." He declared that he was an Austrian resident, and the prefect thus recommended his informal expulsion to Austria following his trial.⁶⁶ None of the Levakoviches arrested previously had been brought to trial on the charge of aggravated begging, and the charge of begging indicated how far the Levakovich family had fallen since 1908. A once relatively prosperous family of horse traders had been expelled to south America twice, had lost all their possessions, had made their way back to Italy twice, and then were faced with further expulsions and arrests. They lived outside of state protections in an arbitrary realm of executive power. At this point, Michele, who had previously fought hard to defend his Italian nationality, denied his connection to the Italian state, and essentially accepted his statelessness.

The story of the Levakoviches was the most well-documented, but not the only, story of families who spent much of their lives within the territory of the Italian nation-state. When the "manhunt" of 1910–11 arrived, their invisible status on the margins was made quite visible by the executive authorities. The police and executive officials worked together to arrest, detain, and expel all Gypsies, and those with claims to Italian nationality proved to be problematic. The shift in Italian policy from a more permissive to a more repressive policy against Gypsies signaled the exercise of a highly flexible state of exception for Gypsy populations. Since the rule of law conflicted with the necessity of ridding the nation of a population branded as undesirable, the executive authorities made decisions, without the acquiescence of a parliamentary or legislative body, to rid themselves of Gypsies. In Germany and Italy, unlike in France, the executive power remained in control of Gypsy policy. The executive authorities could quickly respond to outside pressure, and offer more flexible solutions to the problem – like expulsion to Brazil.

The events of 1910–11 in Italy illustrated the precarious position of those in the category of Gypsy: many, like the Levakoviches, who had lived a relatively quiet existence within Italy were suddenly arrested, persecuted, and expelled as dangerous foreign Gypsies. The category of Gypsy became a momentary flashpoint for a government trying to combat public anger about its own inability to prevent a cholera

outbreak, and exposed the precariousness of their national status. Executive authorities utilized a state of exception that had been successful in controlling brigandage in the south, but were more successful in permanently excluding the category of Gypsy from the national state. The families persecuted had lost their property to pay for detention, and thus even if they returned to Italy, like the Levakoviches, they were destitute. The very process of singling out the so-called Gypsies had made local communities more aware of their presence and less willing to tolerate their appearance or permanence. The category of Gypsies as stateless outsiders had been reinforced. Additionally, the expulsions had generated significant paperwork, and the establishment of the Police Science Academy had led to the creation of a catalog of mug shots and fingerprints for many of the Gypsies processed and expelled at the time (like the Levakoviches). The paper trail made it more difficult for families to escape the label of Gypsy or to resist the arbitrary actions of authorities, but it also instilled a definitive sense of “groupness,” to use Brubaker’s term. The beginnings of a “radical ethnogenesis” laid the foundation for future political organization and action, a new way to resist executive authorities who sought to utilize the state of exception to control Gypsy populations.

The Zigeunerkonferenz of 1911

In a letter from 1910, the district president in Breslau, part of Prussia, described the problem of the *Zigeunerplage*, which, in his words, was endangering the population in the countryside, to the Prussian Interior Minister in Berlin. He complained that since the end of 1909, more and more Gypsies had entered the district, most of them resident (*inländische*) Gypsies who possessed traveling trade permits, despite regulations to the contrary. He indicated that one of the sources of this problem was the inability of many officials to recognize Gypsies when they saw them, or to pass on applications for permits to higher authorities without clearly indicating the applicant’s status as a Gypsy, leading to the mistaken issuance of permits. A clear double standard existed: missing requirements for attaining a traveling trade permit might be overlooked for a German, yet for a Gypsy, this was supposed to be impossible. In order to reduce the number of traveling trade permits issued to Gypsies, he alluded to the fact that he had encouraged officials to be more vigilant of the circumstances of the persons who were issued the licenses: for instance, many Gypsies issued the permits for peddling goods did not actually have the goods with them when they

were detained, and thus the permit served only as a “cover for their robbing and plundering.” He also pointed out that he was not having much luck with prosecuting Gypsies for vagabondage, since many groups of Gypsies possessed considerable amounts of money upon their arrest, and a vagabondage conviction required destitution. He also had put in place measures that would force officials to perform a Reich-wide search of convictions for the person, since, as he argued, “the Gypsies make a concerted effort to remain free from convictions in their place of residence, while they are not nearly so cautious when they are on the move.” He explained that from October 1909 to October 1910, 77 Gypsy bands with 558 people, 73 wagons with traveling Gypsies who were not counted, and 8 bands with members who were not counted had been reported to him. The number, according to him, included some repeats.

He complained that criminal prosecutions were hindered by the fact that the Gypsies were often gone before they could be prosecuted, or that crimes were not reported at all because the people in the countryside were worried that the Gypsies might seek revenge against them. He complained that the expulsion of foreign Gypsies was also not as effective as it could have been, mainly because an expelled Gypsy would and could just cross right back over the border in a different location.

He remarked that a “good number of the so-called inland Gypsies cannot prove their nationality [*Staatsangehörigkeit*],” and thus asserted that he had begun to undertake a thorough background check into all the Gypsies living in his district to see if they could be expelled. He stressed the importance of arresting Gypsies whenever possible, since “the Gypsies would give up everything in order to maintain their freedom.” The longer they were in jail, he argued, the less likely they were to return to a certain locale. He recommended more strenuous regulation of the population and a more concerted effort to separate families, particularly for the education of the children. He also complained about the lack of funding and organization of the police forces, who had failed to solve the problem, and suggested the participation of the customs officials at the border.⁶⁷

The report, issued at the behest of the Prussian Interior Minister, gives a good overview of the issues surrounding the implementation of anti-Gypsy policy before World War I. What is striking about the letter is the stark continuity of the complaints and the problems faced by the authorities wielding executive power: they often ran into the conscious or unconscious checks and balances provided by other branches of government, especially the judiciary, as well as the practical limitations of funding police forces adequately to provide for the task. From the

founding of the Reich through World War I, a plethora of regulations and rules, stemming from the executive authorities on all levels of the state, failed to make much headway against the perceived Gypsy problem. In the years 1910–11, there was an upswing in complaints like the one from the district president in Breslau, as officials grew frustrated with a perceived lack of progress in controlling the Gypsies living in Germany. As Dillmann put it in the introduction to the conference program from 1911,

Despite the large number of these decrees, today we must also unfortunately continue to speak of a Gypsy nuisance. The proof of this lays not only in the statistics of the Bavarian *Zigeunerzentrale*, but also – in so far as the rest of the territory of the Reich is included – the ever present complaints in the press, the complaints to the authorities, in the Reichstag, and the legislative assemblies of the individual states.⁶⁸

The perceived lack of progress could most certainly be linked to the continuing efforts of the surrounding countries to crack down on their “Gypsy problems,” leading to a backlog of Gypsies waiting for expulsions and a constant cycling back and forth of Gypsies over international and internal borders. Dillmann specifically cited the suggestion of the Swiss government for an international conference to determine the future of stateless Gypsies, but noted that the German government could not participate in any international deliberations regarding the future of Gypsies in Europe until the problem was addressed at home.⁶⁹

The Bavarian interior ministry, which had long viewed itself as the leader in the question of Gypsy control in the Reich, convened a meeting in December 1911 to address the problem, and invited representatives from the areas of Germany most affected by the Gypsy nuisance: Prussia, Sachsen, Württemberg, Baden, Hessen, and Alsace-Lorraine. The goal of the conference was to come to an agreement on a Reich-wide policy to deal with Gypsies, since policy up until then had been left to the individual states, which often led to “Gypsy-dumping” – in other words, officials, particularly police, were often tempted to shove unwanted Gypsies into the next German state rather than implement the often complicated, and always expensive, process of ascertaining their identities and returning them to their “homes.” Bavarian officials believed a unified policy would prevent this kind of cyclical expulsion and create a more definitive solution for both foreign and German-born Gypsies. The conference reinforced the application of a state of exception to the Gypsies, who were under the direct control and whims

of the sovereign power, despite the fact that the conference program was not approved by all the participants until right before the war, and then dismissed until the Weimar era. An analysis of the actual discourse employed at the conference offers a glimpse into the modern bureaucratic state's consternation in the face of a broadly defined, ever-shifting category of persons. Inclusion in the category meant persecution and an existence outside of the usual protections provided by nation-states for their citizens under the concept of the rule of law.

Alfred Dillmann authored the conference program, which sought, above all, to establish a Reich center for Gypsy control, based on the model of the Munich *Zigeunerzentrale*, which would provide for coordination and control, particularly among the police forces. His introduction to the program offers a glimpse into the logic of the state of exception and the problem of anti-Gypsy legislation in the Reich. He stated that the program "comes from the standpoint that the solution of the Gypsy question cannot be undertaken through legislation on the level of the Reich or the individual states, but that this goal is best achieved through the creation of a list of unified administrative regulations."⁷⁰ In a footnote, he explained that the attempt to pass a law of exception (*Ausnahmegesetz*) in the Reichstag in 1910 was unnecessary, "even though it cannot be debated that the Gypsies, who are on the lowest rung of culture, are not ready for the newest phase of development of the German people, freedom of movement and free trade."⁷¹ During discussions at the conference, the Prussian representative

alluded that through a powerful executive Prussia had succeeded in keeping Gypsies out; if they entered out of their own free will, they would shortly leave of their own free will. As far as international regulation, his government [Prussia] does not see any advantage; the most important role in the struggle against the Gypsies is always the executive [*Executive*], which in Germany is much stronger than abroad.⁷²

The Prussian official could hardly have been clearer: a strong executive, like that in Germany, could deal much more readily and harshly with Gypsies than other places with strong legislative and judicial powers. The rule of law underpinning modern nation-states proved to be more of a hindrance than a help when dealing with undesirable populations who were not considered part of the "national body." The stronger the executive, the more able it would be to impose a state of exception upon

the undesirable populations, thus excising them on a more permanent basis from the nation. In Germany, administrative decrees from the individual states making up the Reich were supposed to accomplish the goal, but by 1910, officials felt that they were inadequate. The conference was an attempt to coordinate policies across states, but did not signal a turn to legislative solutions. The seeming inefficiency of the measures taken in the state of exception was in part to blame on the checks to executive power: budgetary limits, the legislative, and the judicial powers. However, as the officials at the conference made clear, these inefficiencies were preferable to those that would be created by specific laws which might limit their freedom of action.

The impossibility of a legislative solution and flexibility of an executive solution was illustrated well by the debates at the conference over the very meaning of the term *zigeuner*. The first article proposed for the conference sought to create a stable definition for the word Gypsy itself, something which, as Dillmann argued, none of the administrative measures thus far enacted in the Reich had ever defined. He proposed that “those who should be defined as Gypsies, without reference to their race or tribe, are all those persons who, as a rule, travel around in hordes or bands either without professions or as merchants, traders, entertainers, or tricksters and who have no fixed residency.”⁷³ Dillmann was very careful not to include blood-based definitions of what constituted a Gypsy, as I pointed out in Chapter 4, but instead outlined a behaviorally constructed category, in order to include the largest number of people possible in the state of exception. He racialized the category of Gypsy by positing its unchanging characteristics, not by asserting that “Gypsy” blood was inherently tainted. In his explanation, Dillmann clarified that it was the factors of “outer appearance, occupation and nomadic lifestyle” which were key in determining one’s attribution to the category of Gypsy.⁷⁴ The discussion of this definition was one of the most heated of the conference, and illustrated the difficulty of creating an administrative category. The representative from Hessen argued that the definition was too broad, but then also suggested an addition to the definition that would specify that Gypsies who practiced a trade were still Gypsies, unless the trade was sufficient to provide “support for them and the people traveling with them.” He was internally conflicted: he felt as if the definition covered too many people, yet suggested that one would continue to be a Gypsy until he could support an entire family with his income. An implicit assumption here was that someone might very well be able to shed a Gypsy identity if he did have a career sufficient to provide for his family.

In article 29 of the conference program, regarding the “sedentarization, education of Gypsy children, and naturalization,” Dillmann asserted that some Gypsies could shed their label and become good Germans, and that the policies outlined at the conference were only designed to target “the parasites on the national body” who refused to accept the best efforts of the state to assimilate them to the “culture of our people.”⁷⁵ He despaired of the ability of adult Gypsies to undergo this transformation into “good Germans” but said the efforts should focus on the education of the children and, in particular, their removal from the negative environment created by their parents. The Prussian representative at the conference suggested that the word “naturalization” (*Einbürgerung*) be struck from the article’s title since “one can only think of the naturalization of Gypsies when they have given up their status as Gypsies.”⁷⁶ The assumption on the part of the conference participants was that in select circumstances, Gypsies, by dint of giving up the characteristics ascribed to Gypsies, could become Germans. Thus, the definition of Gypsy remained a social and behavioral category, not a biological one. Nonetheless, the prospects of leaving such a category once the label was applied were dim. Despite the existence of German-born Gypsies, German Gypsy remained an oxymoron for the representatives of the conference. The Italian equivalency of Gypsy with statelessness, despite initial difference, was by this point closely approximated. In the end, the representatives decided to strike the term “naturalization.”

The representative from Hessen also assumed that all Gypsies were poor, but this attribute, like so many others, often hid a more complex reality: many Gypsies who were arrested and prosecuted on the charge of vagrancy (*Landstreicherei*) were released because they had sufficient funds to support their entire family.⁷⁷ So for example, the Simon family, who authorities defined as Gypsies, stopped in Moosburg (Bavaria) in 1885 and “aroused suspicion through their large purchase of foodstuffs . . . meat, whole hams, wine, beer, and then they paid for everything in cash, and displayed money in banknotes and gold worth hundreds.”⁷⁸ The fact was, defining Gypsies as poor was an untenable solution, since at least some of them had important roles in niche economies – metalworking, horse trading, and coppersmithing. However, as is clear in the earlier chapters, part of the Prussian and Bavarian (as well as the French) strategy of harassing Gypsies was paying for their detention out of the Gypsies’ own wealth, so that families like the Simons often took a huge financial hit from the intensification of anti-Gypsy policy after the unification of the Reich.⁷⁹

The representative from Württemberg argued that, “most of the people who traveled around like Gypsies had a fixed residence, and further, the movement in hordes or bands is not a distinguishing feature of these people, since it is forbidden in Württemberg.”⁸⁰ He suggested that “Gypsies in police usage are Gypsies in a racial sense as well as those who travel around like Gypsies.”⁸¹ The Prussian representative, while agreeing that a definition of the term was necessary and desirable, argued that it would be impossible to come up with a definition that would encompass every case, but that it was necessary that any definition include “individuals or families” who traveled around. The representative from Alsace-Lorraine pointed out, however, that “any precise determination of the concept would mean a restriction for the authorities; in any case, the suggested definition of the concept went too far, since harmless people would fall under the definition; he asked instead that the definition of the concept be avoided altogether.”⁸² The representative from Sachsen pointed out that the definition was contradictory: while the definition of Gypsy in article 1 defined them by their tendency to move around in bands or hordes, article 13 proposed forbidding traveling in bands or hordes throughout the Reich. The Munich police president remarked in response that it was necessary, in the interest of a unified Reich-wide policy, for the officials on the state level to determine who was a Gypsy using a common definition. Finally, a representative from Württemberg, Dr. Hermann Aichele, who had written his dissertation on the “Gypsy question,” asserted that jurisprudence could not aid them in coming to a definition, but suggested that they turn to the social sciences for a more accurate definition. He had been unable, despite many years of effort, to come up with a better one.⁸³ Apparently, discussion of the article went on for some time, and no satisfactory resolution was achieved, so the original definition stood, but the discussants generally agreed that some “explanatory features” should be added, without being able to agree on which ones.⁸⁴

Categorizing the Gypsies was much more confusing than the Munich conference sponsors could have predicted. The various suggestions for improvement could have encompassed nearly every impoverished individual traveling around Germany in search of work. Since “Gypsy” was functioning as a social and economic category, it was virtually impossible to separate the kinds of behavior practiced by so-called Gypsies and the rest of the migrant population. In the end, the conference participants were more or less forced to fall back on the “know them when you see them” strategy that had, on a practical level, been used, with mixed results, in both Germany and Italy. Another striking aspect of

the conversation was that biological racial characteristics *did not* play a significant role in the discussion, yet “social science” definitions were used with the logic that they would create a broader category. The definitions suggested by the conference participants demonstrate the broad outlines of thinking on the administrative definition of a Gypsy, but concomitantly show that every state’s *modus operandi* differed slightly. In practice, this meant that someone who was considered a Gypsy in one part of Germany might not be in another. For example, in a case I mentioned in Chapter 4, the Italian Sozzi family was expelled as Gypsies from Bavaria, while they had been issued valid permits for traveling in Prussia, whose officials contended that the family had shown no outward signs of being Gypsies.⁸⁵ Treatment of resident German Gypsies demonstrated similar confusion: for instance, in 1912, officials in Saxony lodged a complaint with the Prussian authorities when they detained someone they thought was clearly a German-born Gypsy by the name of Theodor Schmidt. Schmidt had been issued a traveling trade permit by Liegnitz, a district of Prussia, where he was a legal resident. The permit had failed to note his status as a Gypsy, which was one of the provisions of the 1911 conference that had been adopted by the participant states. The Prussian trade minister and the Interior Minister wrote to the president of the district government in Liegnitz stating that the police direction had included Schmidt as a person “who traveled around like a Gypsy” in their report from 1912, and so the Prussian officials felt compelled to recall the president’s attention to the fact that “when the grounds for a legal denial of the request of a native Gypsy for a traveling trade permit are lacking and the permit must be granted, the status of Gypsy [*Zigeunereigenschaft*] must be clearly marked in the permit, or in the case that this status has not been determined with certainty, the additional remark ‘travels around like a Gypsy’ should be added.”⁸⁶

The inability to come up with a comprehensive definition for a Gypsy led to this type of confusion, particularly for the elusive group of those who “traveled around like Gypsies,” and thus were apparently administratively equivalent to a more racialized definition of Gypsies. For example, the police director in Düsseldorf wrote to the Bavarian interior ministry in 1913, requesting that Lorenz Berg be removed from the *Zigeunerbuch* because their extensive research had determined that Berg actually possessed Prussian (and therefore German) citizenship. The interior ministry in Munich responded that there was no need to do this since Berg was not entered into the book as a Gypsy, but as someone who merely moved around like one, and stated that since Berg regularly received a traveling trade permit, his presence in the *Zigeunerbuch* “did

not create any disadvantages for him.”⁸⁷ Considering that the Bavarian proposal created a functional equivalency between Gypsies and those who acted like them, it seems virtually impossible that Berg did not face any disadvantages from his presence in the book. Bavaria considered him, for all intents and purposes, a Gypsy, yet Prussia saw him as a citizen. In Bavaria, he was living in a state of exception, yet in Prussia he enjoyed the protections of a national citizen.

German executive authorities’ insistence on the administrative equivalence of Gypsies and those who acted like them reinforced the broad contours of the categorization of Gypsies, which took little account of Gypsy blood, but focused instead on seemingly immutable social characteristics. Here Germany differed from Italy, where Gypsies could occasionally prove their Italian nationality and remain inside of the national community. In practice, however, the policies seemed to work in very much the same way: the end goal in both places was to denationalize as many Gypsies as possible while upholding the adherence of both young nation-states to the rule of law. Both Germany and Italy chose to create a state of exception which operated on an executive and administrative level outside the institutions of the rule of law, as opposed to creating laws that would directly control the Gypsy population, but also solidify the category of Gypsy and violate the idea of legal equality. In this state, those classified as Gypsies could be treated as *homines sacri* and removed from the basic protections of modern citizens of the nation-state. In both places, the state of exception allowed executive authorities to claim adherence to the strictures of the law, since they set aside special regulations covering the treatment of Gypsies, and those separate administrative procedures operated on the assumption of the Gypsies’ dubious national identities. Despite the fact that German authorities took into account the legal possibility of Gypsies with German nationality, the policies adopted by the individual German states were almost always geared toward labeling and excluding those German Gypsies from the national body whenever possible. While in theory, as the representative from Hessen asserted, it was possible for German Gypsies to shed the label when they shed the social-cultural characteristics attributed to them, in practice, the category grew broader and broader over time, placing more and more people in the state of exception reserved for Gypsies. The same was basically true in Italy, although at least early in the period under consideration here, there was more flexibility for ethnic Romani groups to assimilate (and disappear) in Italian society. However, by the expulsions of 1911, the label of Gypsy was applied more frequently and with more severe consequences

for a wider number of people, many of whom had at least some claims to Italian nationality.

German officials created a great number of bureaucratic regulations in order to attempt to administer those placed in the state of exception, while Italian officials employed more *ad hoc* and short-term solutions, which were no less severe in their consequences for the individuals tarred with the label. The solidification of the category of Gypsy that took place in the years immediately preceding World War I corresponded to its racialization. Executive authorities increasingly viewed the contents of the category as immutable attributes, and the rhetoric of “nationalizing” Gypsies lost favor. Even in Italy, where a small number of former “Gypsies” became nationals, Gypsies’ ability to escape their categorization became more circumscribed over time, at least on the highest levels of government, if not locally. The racialization of the category made German officials at the 1911 conference nervous about classing Gypsies with those who “behaved” like them. They worried that once an individual was treated like a Gypsy, he would *de facto* become a Gypsy, and be unable to escape the category – he would be racialized, like the Prussian citizen Berg.

The Munich conference in 1911 did not only raise the question of exactly who constituted a Gypsy, but initiated discussion among the different German states about other problematic elements of the regulations governing Gypsies. For instance, representatives discussed the meaning of the terms “horde,” “family,” “vagabond” and “fixed residence.” The term “horde” (*Horden*) was often used in administrative regulations forbidding “traveling in hordes” (*Reisen in Horden*). At the time of the conference, Baden, Alsace-Lorraine, Hessen, and Württemberg had already passed regulations forbidding such traveling, and the conference program made it clear that the regulations were not to be issued “in the form of a law” in order to avoid conflicts with the law regulating freedom of movement. The program explained that the regulations did not define the term Gypsy, but that all except Baden had given a specific definition to the term “horde.” Representatives from Württemberg and Alsace-Lorraine defined a “horde” as “a unit of several families or individual persons with a family that they do not belong to.” The representative from Württemberg further explained that it had to be more than a single person attached to an unrelated family, it had to be at least two people, and usually more. Dillmann, however, preferred the Hessen representative’s definition of a horde: “when a family of Gypsies is accompanied by another family of Gypsies or individual people who do not belong to the same family.” Dillmann liked this definition

because the term “family” could be defined very narrowly to mean only immediate family members, and not extended ones. Since Gypsy families tended to travel in extended family groups including distant relatives, Hessen’s definition allowed a broader field of operation for the police. Also, as Dillmann noted, “It is self-understood that any kin relationships which the members of the horde claim to have, can only be acknowledged when they are proven.” The proposed Reich central office for Gypsy control would have provided this kind of evidence.⁸⁸ The proposal was accepted without debate at the conference.⁸⁹ Again, a push towards *broadening* the state of exception was evident in the attempt to define administrative terms more precisely, defining as many people as possible as Gypsies and thus dealing with them as the “exception.” The functioning of the state of exception is evidenced by Dillmann’s instruction that direct dealings with the legislative or judicial branch were to be avoided, and that instead executive discretion should be the only method for instituting these kinds of regulation. A law of this nature would clearly contradict the “freedom of movement” clause in the German trade law – as would most of the executive regulations proposed in the conference program and enforced with varying levels of efficacy in the German states. For instance, article 18 of the conference program also proposed excluding Gypsies from steamships (crossing Lake Constance) and trains, but again, without passing explicit laws, but merely through regulations which would technically adhere to the letter of the law regarding transportation.⁹⁰

Another term analyzed in the conference program and accepted without debate during the conference itself was “fixed residence” (*Wohnsitz im Inlande*). German trade law required that the issuance of a traveling trade permit was dependent upon the applicant’s fixed residence in Germany. As Lucassen points out, Germany’s residency requirement for welfare was key in the development of the provision. Dillmann asserted that many Gypsies got around this provision by renting a residence in a small community, registering with the local police, and obtaining a certificate from the mayor attesting to their residency in the community (*Gemeinde*). Thus, he argued, authorities should be careful to unmask such “deception” on the part of Gypsies, and only issue permits to those who *really* had a fixed residence.⁹¹ It is difficult to imagine how any bureaucrat could possibly ascertain if someone was “pretending” to have a fixed residence, when they were renting a residence, registered with the police, and had obtained proof of the residence through the local mayor. How would a local mayor differentiate from a seasonal laborer who moved from place to place with his family to find work

from a Gypsy? The question probably would have been nearly impossible to answer. For example, in the above case of Theodor Schmidt from Liegnitz, the mayor of Liegnitz probably issued the traveling trade permit because Schmidt appeared to fulfill all the requirements of the Reich trade law, and the mayor saw no legal reason to deny the permit. Even the Prussian officials responding to the complaint from Saxony did not argue that the permit should be confiscated, but that instead it should be marked with the word Gypsy, presumably to keep officials on Schmidt's traveling route attentive to his movements, in order to more easily catch him on a violation of the law. Schmidt then would end up living under a set of regulations different from everyone else, regardless of the fact that he had gone so far as to prove his German nationality beyond any doubt – a key requisite for the traveling trade permit. The authorities, in this situation, were careful to observe the dictates of law to some extent, since they had no legal ground to deny Schmidt the permit, yet subtly were able to take away his right to freedom of movement through the power of the executive and administrative regulations (beyond the reach of the legislative or judicial branch). Thus, a cycle of close surveillance, arrests, criminalization and loss of rights could ensue – all enabled by placing Schmidt in the state of exception by labeling him as a Gypsy.

The final term that generated some discussion at the conference was that of *Landstreicher*, or vagabond. Unlike in Italy, where the legal reform of 1889 eliminated vagabondage as a punishable crime, *Landstreicherei* remained a criminally punishable offense in Germany, and was frequently used to arrest Gypsies. Dillmann noted that even in Bavaria regulations clearly stated that even Gypsies with sufficient money, but who were not actually engaged in the trade they “pretended” to practice, could still be convicted of vagabondage. Dillmann wrote that in these cases, the courts often stymied the efforts of the police because they exonerated the Gypsies of the crime due to their possession of valid traveling permits or sufficient funds. He also complained that the courts often failed to rule that the Gypsies should be handed over to the state police, who were in charge of meting out the workhouse penalties that were, according to him, one of the most effective measures against the return of Gypsy bands. These workhouse penalties applied not only to German Gypsies, but to foreigners, especially those whose identity was uncertain and would thus require a long and drawn-out expulsion process.⁹² In this case, the specific difficulties caused by the judiciary's adherence to the law caused the representative of Alsace-Lorraine to suggest that Reich penal law be amended to ease the handover of Gypsies to the state police authorities following their arrest and conviction. The

other representatives agreed, and also promised to take up the question of whether the law could be further amended to equate those traveling around as Gypsies or like Gypsies with vagabonds.⁹³ With all the other questions raised at the conference, the participants were careful to state that a *non-legislative* solution should be found to the problem of Gypsy control, but in this instance, where the judiciary had proved to be such a problem, the only way to get around the problem was to *legislate*. However, even in this instance, it is important to note the suggested wording: vagabondage would be redefined to equate it with the fuzzy category of “Gypsy,” which would in turn allow the judiciary to convict Gypsies more freely of being vagabonds (or, in other words, Gypsies would be convicted of being Gypsies!), which would then enable a handover to the state police, who could then punish them with workhouse penalties. The circularity of the proposal demonstrated the difficulty of attempting to uphold the norms of the modern bureaucratic state while singling out a group of people as exceptional and treating them differently.

The difficulty of creating a workable solution to the Gypsy problem, as evidenced in both the Italian expulsions of 1911 and the German Gypsy conference of 1911, was compounded when the states attempted to propose international solutions for a problem that had effectively been internationalized by the very inability of the modern state to deal with the problem within their own legal frameworks. Thus, part of the inspiration for the conference in Munich was international pressure to solve the Gypsy question, but it also provided one of the strongest points of contention among the participants. In the conference program, Dillmann asserted that the “modern state” could not give up on their efforts to integrate Gypsies more fully into their communities (despite devoting the preceding 41 pages to excluding Gypsies from the German state), and stated that “individual Gypsies can perhaps be accustomed to work and be educated as useful members of the national community [*Volksgenossen*] and it is the duty of each state, which realizes such a hope, to leave no method untried to realize this possibility.”⁹⁴ He then proposed a similar solution to that of the Swiss: the creation of a binding international commission to assign Gypsies of questionable nationality to individual European states. In virtually the same breath, however, he dismissed the possibility that a plan like that could be realized because of prohibitive costs and unavoidable conflicts. He also doubted that the states to which some of the Gypsies would be assigned would have the funds necessary to make them sedentary. The program proposed an international meeting in which the question of what to do about stateless Gypsies would be addressed. The participants showed

little enthusiasm for the proposal, and the representative from Alsace-Lorraine suggested that the “foreign and stateless Gypsies... should be sent to the colonies,” and the representatives from Württemberg and Hessen supported the idea. Both Prussia and Baden, however, objected to the proposal and argued that the Reich colonial office would find the proposal problematic.⁹⁵ The proposal is reminiscent of the Italian government’s procedures in 1911 – the “stateless” Gypsies were placed on ships heading to Brazil. Like the earlier Swiss proposal, the conference’s aim to call for an international forum to deal with the Gypsy question was defeated by the states’ own inability to come up with a workable solution to the Gypsy problem in their own country.

Following the conference, Prussia continued its refusal to create a center for Gypsy control in Bavaria, and Saxony refused to agree to the conference proposal until Prussia did. After a great deal of correspondence, all of the participant states had agreed to the conference proposals in their final form by September 1914, after the start of the war, but at that point Baden suggested that the implementation of the agreement should be put off until after the war’s end, and the Munich police direction agreed, since many of the police personnel had gone off to war.⁹⁶

The failure of the conference tells a story about the inability of the German states to present a unified front against Gypsies, despite their common goals. The problems that plagued the implementation of Gypsy policy before 1911, alluded to in the report from Breslau in 1910, continued to be a problem after the conference, partially because of the decentralized structure of the German nation-state and the power and organization of the individual states making up the Reich. Nonetheless, all the states had agreed on the common set of problems, and had come up with broadly similar solutions based on the exertion of sovereign and executive power, and the bypassing of legal or judicial solutions. The conference, despite its failure, offers insight into the process of creating Gypsy policy in Germany before World War I, and the process of setting Gypsies apart from the citizens of the German nation-state.

Conclusion

By 1913, in Germany and Italy, being a Gypsy meant existing as a *homo sacer* outside of the protections of the rule of law. In Germany, the solutions focused on regulations that created a confusing and contradictory approach to the problem that, in practice, did little to ameliorate a situation in which authorities shoved groups of Gypsies back and forth

over internal and Reich borders. In Italy, frustration with the same kind of circular expulsions led to more extreme ways around the rule of law – shipping Gypsies off to South America. The year 1911 marked the culmination of post-unification policies in both places, and the intensification of the search for a solution to the Gypsy problem. Gypsies became a marked population who existed beyond the margins of society, in a state of exception where the arbitrary nature of sovereign power continued to exert its considerable force. Executive authorities attempted to block Gypsies from entering into the German and Italian national communities, and on a European-wide level created a group of stateless people who encountered increasingly great difficulties in maintaining their niche in the late 19th- and early 20th-century economies, which were already undergoing processes of rapid change.

The state of exception was enshrined in the legal norms of both the German and Italian systems of law. These laws gave executive officials the power to interpret who constituted dangerous and undesirable foreigners without judicial interference. The project of building a national community pushed executive authorities to expand the state of exception provided for in those laws to include Gypsies, regardless of their legal status or nationalities. Merely criminalizing Gypsies did not accomplish the goal of ridding the national community of all whom executive authorities came to label as Gypsies since the judiciary thwarted the police harassment of Gypsies simply by upholding the law. The state of exception provided a convenient way to expand the ambition of their projects, and strip Gypsies of their nationality. Without a nationality, Gypsies no longer had access to the protections of the modern state.

6

The Courts, 1861–1914

The treatment of Gypsies in the judicial system of Germany and Italy helps to explain the executive authorities' decision to turn to the state of exception as their primary mode of dealing with them. The judicial system served both as a key player in the campaign against Gypsy populations and a hindrance to its implementation. Ultimately, the inability of the judicial system to lay the groundwork for the complete denationalization of Gypsy populations caused frustrated executive authorities in both countries to strip Gypsies of the basic protections provided by law, so that they could dispose of them more easily. Judicial authorities, in spite of their own intentions to support national authorities in their quest to keep out Gypsy populations, often ended up protecting the very people targeted. Gypsies themselves were aware of the fact that judicial proceedings could often protect them from the worst excesses of executive power, and used the law to protect themselves when they could. Gypsies' use of the law as a form of resistance led increasingly frustrated executive authorities to utilize the state of exception provided for in the law, which freed them from judicial interference.

The supremacy of the rule of law in the modern era meant that state authorities, no longer single sovereign princes, had to change their approach. However, they continued to use the older and well-established image of the Gypsy as the definition of the uncivilized "barbarian." The category had to adjust to the new rationalist, legalist categories of state administration, but the goals remained the same: elimination of so-called Gypsies. In both Germany and Italy, the creation of the modern bureaucratic state meant that judges had to abide by the legal norms set out in the constitution, and the legal system was supposed to provide a check on the power of the executive authority. Continental European law was based on a civil law tradition that

asked judges to enforce universally applicable legal codes. Alessandro Simoni points out that this commitment to abiding by constitutionally established norms and practices provided a serious challenge to laws targeting Gypsies. National constitutions, which enshrined liberal and universal goals, made creating a separate legal category for a single group ideologically challenging. Legislators navigated around this prohibition by passing laws that criminalized unwanted behavior, rather than unwanted groups.¹ Herein lay the tensions between the modern, nationalist bureaucratic state, the legal system, and Gypsies. Judges who were sworn to uphold the constitution and the civil code often did so in cases involving Gypsies. Judges could and did throw out arrests that stretched the interpretation of criminal law. They were not protecting Gypsies as such, but the abstract individual shielded by the law.²

The Centrality of the Courts in the Marginalization of Gypsy Populations

As demonstrated in Chapter 2, the regulations emanating from executive authorities in both Germany and Italy made it clear that one of the central strategies in implementing an effective anti-Gypsy policy was to arrest and prosecute Gypsies as often as possible. Imprisoning Gypsies, even for the smallest crimes, gave authorities more time to research their identities and expel them, or charge them with other crimes to continue their detentions.

In Germany, as early as 1886, the chancellor wrote a letter to the interior ministries of the Reich beseeching them to use the avenues open to them to enforce anti-Gypsy regulations, including the prosecution of crimes committed by both foreign and German-born Gypsies.³ A comprehensive list of anti-Gypsy measures directed at executive authorities, *Directive for the Struggle against the Gypsy Nuisance*, was issued in Prussia in 1906. Included in the list was an exhortation that if “traveling Gypsies are guilty of a punishable offense, they should be punished without leniency.”⁴ The easiest crime for the authorities to prosecute, according to the document, was vagabondage (*Landstreicherei*). Convicting suspects of vagabondage required that they have no fixed residence and inadequate funds to support themselves. The executive regulations urged a more wide-ranging application of the law, against even those Gypsies who possessed a valid traveling trade permit, since, according to the regulations, this often served as a “cover” for their vagabondage. The regulations also stipulated that after the arrest of the Gypsies, they should be brought to trial. “In the complaint lodged with the court, the

individual crimes of the persons should be sketched out precisely. The police authorities delivering the Gypsies to the court must request that the court make the Gypsies available to the responsible police forces in the court's jurisdiction after their release from detention or prison."⁵ A provision of this nature highlights the prerogative of executive power in the "exceptional" case of the Gypsy: after they were exonerated from a crime or served their criminal sentence, they were not free to return to the community, but instead, returned immediately to the police.

In Bavaria, justice officials instructed magistrates to inform the police's *Zigeunerzentrale* of any criminal prosecution involving Gypsies, to provide information about the larger group with which the Gypsy was traveling, and to inform them whether the entire band was being held during the prosecution. Judicial authorities were also supposed to report the nationality of the Gypsies concerned if it was discovered during the trial.⁶ The cooperation was designed to prevent the release of Gypsies from custody without executive intervention, either through handing them over to the regional police forces or by initiating expulsion proceedings. Both Prussia and Bavaria's instructions mandating police and judicial cooperation also enabled the state police (*Landespolizei*) to send more Gypsies to workhouses, thought to be an effective tool for preventing their re-entrance into the state.⁷

The 1906 Prussian directive also contained an appendix that listed the crimes for which Gypsies could commonly be prosecuted. These included unauthorized camping on private land without the permission of the landowner, grazing cattle on private property, removal of materials from private land, the lighting of fires in the forest near flammable buildings or materials, shirking of military service, kidnapping, theft (even of "food of little value for immediate use"), illegal fishing, begging ("offering cheap wares or performing tricks with the goal of receiving alms is not excluded from the charge of begging"), neglect of children and family, the illegal practice of a traveling trade, the presence of companions not listed on the traveling trade permit, counterfeiting or alteration of legitimization papers, or use of such papers, as well as usage of papers which were issued to others.⁸ The comprehensiveness of this laundry list of crimes certainly allowed for the easy arrest and prosecution of Gypsies. Therefore, German executive authorities' regulations against Gypsies before 1911 relied heavily on judicial proceedings. Arrest and prosecution for crimes often gave executive officials the time they needed to pursue options like internment in a workhouse or expulsion.

The same was true in Italy. An 1872 circular issued by the Interior Minister Cavallina indicated the importance of judicial cooperation

in controlling Gypsies, stating that “they must be punished with jail sentences.”⁹ As in Germany, Italian officials often prosecuted Gypsies for petty crimes, although the prohibition of criminal sanctions for vagabondage in the 1889 penal code eliminated one judicial weapon against Gypsies. Officials most often prosecuted those labeled as Gypsies for the crimes of theft, possession of an illegal weapon, recitation of stolen goods, lying about identity, possession of goods of dubious provenance, and assault. Additionally, the Italian system provided the backdoor route of the “admonition” (*ammonizione*), a penalty approved by local magistrates for vagabondage or the inability to support oneself.¹⁰ The issuance of an admonition usually paved the way for the imprisonment of a particular individual.

Once those labeled as Gypsies were arrested and detained, their requests for provisional liberty (i.e. bail) were almost always denied on the grounds that they had no fixed residence and posed a flight risk. For example, in an Alessandria case from 1908, Appollonia Cari was arrested for attempted theft, and held in detention while officials researched her identity – she claimed to be born in Croatia, and communicated in German with the *carabinieri*. When her lawyer applied for provisional release, the court stated that her status as a foreigner, “her vagabondage, and a lack of gainful employment disallows the recognition of the request.” The punishment requested by the prosecutor in the case was 72 days in jail and the restitution of the five lire she had attempted to steal.¹¹

In both Germany and Italy, executive authorities conceptualized the judiciary as an important tool in the prosecution and criminalization of Gypsy populations. In practice, the judiciary was often unable to carry out the directives of the executive, because of the universalist nature of the laws they were bound to uphold, leading to conflict between them, and pushing executive authorities to choose the non-judicial option of the state of exception.

The Inefficacy of a Juridical Solution to the Gypsy Problem

At the beginning of the 20th century, the judiciary in Italy was in a moment of flux. Classical legal theory emphasized that law was the “only legitimate limit of freedom and the only effective guarantee against arbitrary government.”¹² Therefore, “scrupulous law courts threw out cases involving anything other than concrete acts, and that scrupulous government waited to repress or left the work of prevention to the police.”¹³ However, by the turn of the century legal theorists

began to challenge these basic premises, and argued that law needed to become more flexible to deal with exigent situations, particularly those that challenged the security of the state. Legislators increasingly placed power in the hands of the executive to prevent crime, but at the cost of “relinquishing their control” over the executive.¹⁴

Positivist criminologists like Cesare Lombroso and Hans Gross sought to apply this changing view of the law to criminals: instead of viewing criminals as rational actors “choosing” to commit crimes, they began to look at the psychological roots of crime and the biological nature of the criminal. Lombroso viewed Gypsies as “the living example of a whole race of criminals.”¹⁵ He argued that “only a palliative treatment” is possible, with the goal being “‘symbiosis,’ the attempt to utilize the criminal’s evil propensities by diverting the course of the criminal instinct.”¹⁶ Lombroso shifted the focus away from punishing a crime, to reforming the criminal before he could commit the crime. In combination with the changing view of legislatures and the persistent negative view of the category of Gypsy, the door was opened to either increased legislative control over the Gypsy, or empowering the executive to utilize the state of exception to prevent Gypsies from exercising their innate criminality.

The debate over this tension between legislation and empowerment of the executive is clearly illustrated in a 1914 book by the Italian positivist jurist Alfredo Capobianco. The book outlined the problem of Gypsies in Italy, the failure of the law to resolve the problem, and proposed legislative solutions to increase the courts’ efficacy in dealing with Gypsies.¹⁷ Capobianco’s work opens a window for the historian today to “see who, when and how jurists spoke to other jurists about Gypsies, which can enable us to understand the *forma mentis* of those who controlled the repressive armature of the state.”¹⁸ Capobianco took an interest in the Gypsy question after he presided over or attended several trials dealing with Gypsies, and grew frustrated with the “contradictions between the maturity of the times and the hesitation of the law,” and decided to expose the “great difficulties of the law in relation to the Gypsies.”¹⁹

His work highlights the initial strategy of Gypsy control for executive authorities in Italy. They tried, first and foremost, to criminalize Gypsies as a way to set them apart, as a group, from the rest of society. The “great difficulty” with this strategy, Capobianco explained, lay with the inability of police and judicial authorities to make Gypsies “legible.” The ability of state authorities to give a name, a status, and a history to the “abstract” individual enshrined in law was essential to the functioning of the modern state.²⁰ In order to criminalize Gypsies as a

group, it was necessary to assign them individual identities. In practice, Capobianco pointed out, this proved challenging: “Generally, in fact, one constantly feels the need for judges and the judicial police [*polizia giudiziaria*] to resolve the grave problem of the personal identification of the Gypsies: a problem that is rooted in the study of their criminal habits and their constant violations of the order of civil society and of other laws.”²¹ Capobianco pointed out that judges’ efforts to carry out the executive regulations were stymied by the Gypsies’ tendency to obfuscate their identities and elude prosecution.

According to Capobianco’s logic, Gypsies, because of their innate criminality, had removed themselves from the state by constant violation of its legal norms. Like James Scott’s “barbarian” inhabitants of Zomia, Gypsies resisted legibility projects at the same time as the state sought to exclude them because of their barbarian status. Capobianco’s logic was remarkably circular: the executive authorities aimed at the criminalization of Gypsies via the police and the executive regulations outlined above, and their success led the public to suspect Gypsies of all unexplained crime. Then, since all Gypsies were “criminal,” they removed themselves from the protections of the law. Capobianco argued that “It is precisely the towns frequented by Gypsies that see the greatest number of unpunished crimes, and the rise in crime does not correspond to a proportional growth in the population. If crime statistics could possibly give us, along with the data on acquittals, the number of trials which specifically involve Gypsies, distinguishing these from others, it would show in a tangible way that the percentage of acquittals is directly linked to the delinquency of Gypsies.”²² Since Gypsies were believed to be inherently criminal, it became easy to justify placing Gypsies in a state of exception, because they were perceived as dangerous criminals who were consistently acquitted in courts of law, usually due to problems of identification.

Despite some specious logic on his part, Capobianco made an important point: the judicial system often was quite ineffective in incarcerating Gypsies, in spite of its best intentions. The inefficacy highlighted the strength of the modern bureaucratic state – as long as authorities worked within it, it served to ensure a minimal level of protection for the individuals who were drawn into confrontation with it.

Capobianco thus revealed the tension between the universal individual enshrined in classical legal theory and the particular case of Gypsies as a group singled out for exclusion from the national body. One of the ways he did this was to assert that too many cases against Gypsies were thrown out due to insufficient evidence. I often found

examples of this “problem” in my own archival research. For example, Rosa Margherita, who was labeled as a Gypsy in her case file, was arrested in 1908 in the suburbs of Alessandria for stealing a chicken. The *carabinieri* had received a report that the chicken had been stolen, and that two young girls reportedly had seen the Gypsy taking the chicken from the owner’s property (which the girls later denied). The *carabinieri* were dispatched to carry out a thorough search of Margherita’s entire Gypsy encampment. The search was a legally questionable move since the *carabinieri* had only one suspect, and they searched private individuals and belongings not related to Margherita. The police were unable to find the chicken. Back at the chicken coop, the owner pointed out that there were reddish feathers located outside of the coop at the location where the Gypsy had allegedly “stopped to kill the chicken.” On this evidence, and the testimony of the girls who picked Margherita out at the Gypsy encampment, she was arrested and detained. However, the presiding magistrate released her six days after her arrest due to insufficient evidence, and she was apparently not deported.²³ The courts proved unwilling to convict a woman on the sole fact that some residents attributed a single missing chicken to her, demonstrating the judge’s willingness to uphold the law despite the fact of Margherita’s Gypsy identity. The name of Rosa Margherita was an alias employed by the arrested to avoid research into her background and nationality, making deportation and prosecution difficult. A combination of factors may have led to her release, but ultimately, the “problem,” both for Capobianco and executive officials, was a lack of specific laws targeting Gypsies. Remaining within the universalist legal norms enforced by the judiciary often left executive officials dissatisfied with the judicial system. Creating a national community free of Gypsies either required legislators to choose to violate the universal applicability of law in order to target the Gypsies as a group, or to allow the executive to use the state of exception to control them outside of the law. Italian legislators made a conscious choice in the late 19th and early 20th century to empower the executive to avoid violating the norms of classical legal theory.

The story of the Dodor family provides another illustration of Capobianco’s “problem:” the inability of the judiciary to uphold executive regulations singling out Gypsies for persecution, often due to questions of mistaken or false identity. In July 1895 in a suburb of Alessandria, Giovanni Tacchino reported that he suspected “a company of Gypsies” who had stopped in the town of stealing his cart. The group, “among whom there was a youth between sixteen and eighteen years old, beardless, black hair, dressed like a Gypsy,” had already departed

the town. The police, in pursuit, arrested the Dodor family, who were from France and possessed valid French passports and traveling papers. The family also had a son named on the passport, who was not traveling with them. According to the family, the son was traveling with other relatives of theirs. The police assumed that he had stolen the cart, and thus arrested the entire family. Dodor, however, claimed that there had been another family camped next to them, who also had a teenage son. A judge from Alessandria wrote to the local district judge a few days after the arrest, asking him to “hold an urgent formal questioning of the named *carabinieri*, exhorting them to specify in a detailed manner the reasons why they supposed the arrested knew about the crime committed by his son (who could have also committed the theft unbeknownst to his parents, especially since he left with their horse attached to the stolen cart and in an unknown direction).” He also stated that the policemen should relate the specific details concerning the source of their suspicion of the Dodors’ son and present concrete evidence to support their suspicion. The *carabinieri* had stated in the initial report that the son had left with the stolen cart, but no one had actually seen it, and the Dodor family disputed the fact. Clearly, the Alessandria judge felt enough discomfort about the arrest of the family with no evidentiary support to summon the representative of executive power, the police, and challenge his conclusions. The theft case against the Dodors was dismissed because of insufficient evidence only a week after the initial arrest. However, the Prefect of Alessandria wrote to the judge, informing him that the Dodors should be placed in the care of the public security forces despite the failure of the case against them, since they had been expelled from Italy in 1893. According to the public security law, once “dangerous foreigners” were expelled from Italy, their return to the country triggered automatic jail sentences and expulsion. In the meantime, two men were arrested and convicted for the theft of the cart, on the specific information provided by the Dodors after their arrest. On August 6, 1895, Giorgio Dodor wrote from the Alessandria prison to the prosecutor:

To the illustrious Signor Prosecutor:

It is now one month and five days since my family and I were arrested and subsequently detained in this prison.

Since I have only an allowance of five lire to maintain my horses and other animals, without provisions for my family, I pray for the exquisite generosity and courtesy of the illustrious Signor to hurry

along our case as much as possible, or at least send us out of Italy, since it would be favorable for us to leave as soon as possible, since we cannot support ourselves on that sum, or we will diminish down to nothing.

Dodor's frustration was certainly justified – the sentence for the man who stole the cart was 72 days, and the Dodors, who had assisted the police in finding the man, had been in jail for 35, with only minimal provisions. Eventually, the Dodors were expelled, and after several requests from Giorgio, the property and money that had been confiscated from the family was returned to them at the French border at the time of their expulsion, in September!²⁴

The Dodor case clearly demonstrated the tension between the courts and the executive authorities. The court was uncomfortable with the idea of an arbitrary arrest of a “group of Gypsies,” in a case where it seemed that any group of Gypsies would do. The judge dismissed the case for insufficient evidence, yet, the public security authorities were ready and waiting to continue the persecution of the family outside of the law, through the state of exception reserved and justified through the legal loophole of the “dangerous foreigners” article in the public security law. Executive power ultimately trumped the check offered by the judiciary, and over time stripped the Gypsies of the protections (however miniscule) initially offered to them by the courts. The move was in turn enabled by legislative authorities who, challenged by new, positivist, conceptions of law, were reluctant to violate classical legal theory to enact illiberal laws, but who increasingly relied on executive power to prevent crime from happening.

The case of the Dodors also once again highlighted the issue of identity, and the difficulty authorities often had in identifying particular Gypsies. The tendency to think that all persons of an “exotic” race looked alike certainly played a role here. Capobianco asserted that there was an “exaggerated similarity among Gypsy-types: almost all have similar profiles, penetrating gazes, and the shape of their flowing locks, cut like a mop under their ears.”²⁵ Gypsies themselves played into this stereotype and used identification, or lack thereof, as a way to fight back against the authorities, or as Capobianco put it:

Not announcing births and marriages to the offices of the civil state in the cities which they travel; lying about their personal information; lying about their own identity and that of others; rendering, finally, a complete air of mystery around themselves regarding their

numbers, their family ties, the people they are traveling with; even adopting artificial personal information and so on and so forth: here are the weapons of their defense which are always within their grasp; here is the flag of their nomadic profession; here is the only way out of certain criminal situations.²⁶

A case from Turin offers a paradigmatic example of the question of Gypsy identity and the ambivalent position of Gypsies in the Italian judicial system. In May 1908, a headline in *La Stampa*, the major Turinese newspaper, read “LaFleur or Deglaudi? The terrible odyssey of a poor Gypsy – the dangers of a similar appearance – the crimes of the bureaucracy.”²⁷ In November 1907, a Gypsy by the name of Antonio LaFleur was arrested in a suburb of Turin, after an anonymous letter denounced him as Giovanni DeGlaudi, a wanted criminal with several convictions for theft. At the trial, despite the fact that several witnesses (including arresting officers from previous crimes committed by DeGlaudi) stated that LaFleur was not, in fact, DeGlaudi, LaFleur was convicted of lying about his identity and presenting false documents, and sentenced to two years in prison, on top of the 15 months he had already spent in “preventative” detention. Since his identity as DeGlaudi was established through the trial, he was then subject to all of the sentences passed *in absentia* against DeGlaudi. Following the conviction, LaFleur’s lawyer located the town secretary from Candiolo who knew both LaFleur and DeGlaudi, and various others who recognized LaFleur as LaFleur. The verdict was appealed, and the Turin magistrate absolved LaFleur, confirming his identity. However, after his release, he was arrested again, as DeGlaudi, for desertion, by the military tribunal in Turin, which had a separate jurisdiction from the criminal court.²⁸ The same lawyer re-presented the evidence in favor of LaFleur, and he was not convicted of desertion under DeGlaudi’s name. Despite the fact that all the charges against LaFleur had been dismissed by that point, the public security authorities continued to hold him until “they had exhausted all attempts to expel him” under the dangerous foreigners provision of the public security law. The *La Stampa* article concluded, “So finally, the disgraced Gypsy continues to remain in prison, unjustly, in evident violation of the most sacred right of any man, whether he is an Italian citizen or not: personal liberty.” The article called for the immediate cessation of action against LaFleur, “which injured the sentiments of rectitude and equality The life and the liberty of a poor foreign Gypsy before the law, thanks be to God, is just as valuable as that of any citizen.”²⁹

The LaFleur case confirms both that the judicial system had an important hand in the conviction and marginalization of Gypsies, but also that, when pushed to its limits, it could and often did protect the rights of the individual. Despite clear evidence to the contrary, and doubtless with significant pressure from public security officials in Turin, the lower court convicted LaFleur of one of the common crimes prosecuted against Gypsies – the presentation of false papers. Courts were both willing and able to play a role in the marginalization of Gypsies, as Capobianco's text asserts. At the same time, however, the Turin appeals court refused to ignore the law, and strictly applied individualist legal norms to overturn an unjust conviction. The military tribunal also acted to uphold the law, preventing LaFleur from an obviously arbitrary prosecution. Herein lay the limits of the law: judges could not convict or uphold a sentence merely because the defendant was a Gypsy. In this case, too, the executive authorities grew exasperated with the mechanisms of the judiciary and decided to move beyond it when dealing with a Gypsy. When the courts "failed" at eliminating the Gypsies, the public security authorities, under the power of the executive, continued the work beyond the limits of what seemed legally permissible.

The case crystallizes the problem of the liberal bureaucratic state in Italy: the newspaper article complained about the damage to LaFleur's individual liberty, a fundamental value. Public opinion, and opinion in *La Stampa* in particular, was generally overwhelmingly anti-Gypsy. Here, however, the paper implicitly recognized the difficulty of creating a modern state based on the equality of individuals before the law while excluding undesirable groups from the nation. The paper took LaFleur's side, as did the courts, in spite of his status as a Gypsy, in order to support the idea of the liberal, universal individual. The executive authorities, however, took the opposite view, by using the state of exception to continue the persecution of LaFleur only because of his ascribed status as a Gypsy.³⁰ In the court of law, LaFleur was not yet a *homo sacer*; instead, he had the same right to appeal an unjust conviction as anyone else. He became a *homo sacer* at the hands of the public security forces, under the aegis of the executive power, who took away his most basic legal right to liberty. Ironically enough, in his work on the Gypsies, Capobianco stated on several occasions that the Gypsies "love liberty for themselves, for their families, and *from* the political-administrative order." He described their struggle against "every supervision which society, for reasons of order and self-preservation, is called to undertake."³¹ As James Scott seems to ask in his own work: does resistance to state legitimacy proceedings necessitate

persecution or elimination? It seems as if the modern bureaucratic state must quash resistance to legibility, even as it expands protections for its own citizens.

The laws written to protect society from “dangerous individuals” intentionally leave a space of “exception” for executive authorities. Government authorities denied Gypsies the basic liberties guaranteed to most citizens on the very basis of “order and self-preservation” alluded to by Capobianco. As John Torpey argued in the *Invention of the Passport*, the foundation of the modern nation-state was tied up with the willingness of citizens to be tracked, surveilled, and identified by the state as a precondition for acceptance and citizenship within the national community. In the modern state, citizens agree to give up freedom in order to gain other freedoms and security. However, those who resist the modern state apparatus of surveillance and identification risk being excluded from the protections and freedoms of the nation-state. In the case of Gypsies, they were caught in an inescapable trap. If they were identified and categorized as Gypsies by the state, they would nearly always be criminalized in the eyes of the authorities and pushed, at best, to the margins of society. If, instead, they resisted identification and categorization as a way to avoid constant harassment by the police and executive authorities, they would nonetheless face criminalization and be characterized as “barbarians.” In the end, executive authorities in Italy resolved the tensions between the executive, the legislative, and the judiciary by utilizing the state of exception to push Gypsies into a space outside of the law.

In its appeal for justice, *La Stampa* did not even question the assumption of LaFleur’s “foreignness,” despite the fact that he was born in France to an Italian father, according to the court documents, and that he had lived most of his life in Italy. Yet, as a foreigner with nationality, he was entitled, according to the dictates of liberalism, to certain rights. Possessing any nationality gave Gypsies some standing in a court of law, and entitled them to the minimum protections of the normative legal state. Gypsies who lost all nationality were *homines sacri*, devoid of any juridical standing. This is the difference between merely categorizing Gypsies as “foreign” and stripping them of their nationality through bureaucratic measures, a tactic that was first made possible by the modern bureaucratic state.

Tension between judicial and executive authorities over the administration of anti-Gypsy regulations was also present in Germany and, as in Italy, this tension led executive authorities away from a juridical solution to their problems, and toward the state of exception. As in

Italy, courts often failed to convict individuals of the crimes for which they stood accused. Since the law against vagabondage required those convicted to be destitute and wandering, Gypsies often were set free because they had sufficient financial means.³² For example, in 1903, authorities in Markt Heidenfeld in Bavaria arrested a group of Gypsies whom they attempted to prosecute for vagabondage. The Gypsies had a wagon and some horses, a few pieces of jewelry and thirty marks, and the police arrested them, since they believed this was not enough money to support them and suspected they were living by “begging and stealing.” However, the prosecutor (*Amtanwalt*) refused to pursue the case for vagabondage, and when the decision was appealed to the higher court (*Landgericht*), it upheld the prosecutor’s decision, stating that the group was “in no way without means.”³³ In the same year, the local government officials from Oberpfalz and Regensburg wrote to the Bavarian Interior Minister, defending themselves against newspaper reports complaining about a “Gypsy nuisance” in Amberg. In a clear signal of the tension between the executive and the judiciary, they told the interior minister that they were doing their best to address the complaints in the press or by private citizens, but that “unfortunately the courts thwart the attempts of police officials to prosecute and sentence Gypsies and when possible to transfer them to the state police [*Landespolizei*].”³⁴

Another tension in common with Italy was the failure of communication between judicial authorities and police authorities controlled by the executive. As in Italy, the police complained that judges would often set Gypsies free without turning them back over to the police, as the administrative regulations required. For instance, the same Dodor family that had been expelled from Italy in 1893 and 1895 was also expelled from both Prussia and Bavaria.³⁵ After the Dodors were arrested on charges of vagabondage in Bavaria, the arresting officers undertook an “exacting search of the individual members of the band and all of their effects, and the members were searched down to their naked bodies, the men by a gendarme and police aide, and the women by a Frau Thomas.” During the search, the police found some money and hidden documents allegedly proving their French nationality (they had claimed to be from Bavaria). Three of the family members received the sentence of one week in prison because of vagabondage, but the sentence did not include a transfer of the group to the *Landespolizei*, which was necessary for either sentencing the men to a workhouse term or the entire group’s expulsion from the country. The county commissioner (*Landrat*) of the city of Arnsberg wrote to the district president that the sentence “delivered the hard evidence that the current regulations for the struggle against the Gypsy nuisance are insufficient. I believe it to be absolutely

necessary to undertake a broadening of the legal provisions to include criminal penalties against Gypsies traveling in bands, with the effect that in the case of a contravention, the handover to the *Landespolizei* must ensue.”³⁶ Like Capobianco, the executive official suggested legislative solutions to a judicial problem: courts had proved unwilling to violate existing laws solely to discriminate against Gypsies. The tension with the judiciary led the official to conclude that either the laws would have to change, or the executive authorities would have to find a way around them. In Germany, as well as in Italy, the latter gradually emerged as the preferred solution, and the Gypsy moved closer to the status of the *homo sacer*.

The placement of the Gypsy population in a state of exception created conflicts among various national authorities, revealing concerns about the juridical status of executive level regulations aimed at Gypsies. For instance, in 1886, the Reich chancellor wrote to the Bavarian foreign ministry with instructions on how to deal with the complaints about Gypsies in the Reich, and he outlined the various deterrent strategies. He obtusely refuted the Bavarian interior ministry’s suggestions for legislative solutions “for private reasons, whose explanation can be avoided here.” He instead suggested that “a strict and unrelenting execution of those measures, which can be enforced by executive authorities within the framework of the current law” could curb the problem.³⁷ In the letter, the Reich chancellor suggested that foreign Gypsies should be rejected at Reich borders, regardless of their personal wealth or the possession of valid legitimization papers, including visas and passports. The Bavarian foreign minister expressed concern over the legality of this final suggestion, but the Bavarian ministry of the interior replied to him, justifying the stance thus:

in view of public welfare, foreigners can be refused admittance to the kingdom [of Bavaria], or expelled from the Kingdom. In this provision, there is no differentiation between single individuals or whole categories of foreigners, and since pressing concerns for public welfare are in favor of forbidding foreign Gypsies entrance into the Bavarian state territory in all cases, the legality of the suggested regulation should provide no valid hindrance, and thus from this point of view there seems to be no grounds against the publication of the regulation in question.³⁸

The regulation was subsequently published in the official paper of the justice ministry on October 26, 1886. Executive regulations on Gypsies challenged the notion of the universal individual enshrined in law,

causing tension between officials from the judiciary and the executive. Specific anti-Gypsy legislation meant the violation of the liberal universalist norms of the constitution, and would have tied the hands of the executive by delimiting a precise course of action against the Gypsies. The executive authorities possessed a great deal more flexibility when they used the state of exception provided for them within the legal code. The flexibility offered by these provisions avoided the problem of judicial interference altogether. As in Italy, however, this meant the empowerment of the executive power at the expense of both the legislative and the judiciary, despite the theoretical maintenance of the universal individualist concept of law.

The publication of the *Zigeunerbuch* in 1905 further illustrates the friction between judicial and executive authorities. The Bavarian justice minister wrote to the interior minister in May 1905, and expressed his concerns about the *Zigeunerbuch*. His problem lay not with the inclusion of those who were “doubtlessly” Gypsies, but those who “acted” like Gypsies.

With this very broad definition of the concept of Gypsy and the wide distribution of the book, there is the danger that some of the individuals practicing a traveling profession, who have thus far not had any criminal convictions, will complain about the increased difficulty of practicing their trades and find a sympathetic ear here and there. Also, the possibility cannot be excluded that non-Bavarian individuals practicing these trades may call for the protection of their local governments and thus precipitate uncomfortable confrontations.³⁹

The letter suggested a more limited distribution of the book, as well as an editorial change in the definition of Gypsies laid out in the foreword to the book. The justice minister recommended some clarification as to why those who were listed in the book were there, as well as a clear distinction between those who “traveled around” like Gypsies and Gypsies themselves. He requested that the alphabetical listing of the persons in the book should be instead divided into two parts: one for the “real” Gypsies and one for those who acted like them – highlighting the amorphousness and arbitrariness of the category of Gypsy.⁴⁰

The interior ministry agreed to some compromise language that appeared in the foreword to the book, alluding to the fact that besides those who were “doubtlessly” Gypsies, the book included those who traveled around like Gypsies. “Finally there are (just a few) people who practice traveling trades included, who have been labeled [*signalisiert*] as

Gypsies, but have not proven to be Gypsies and as long as there are no changes in their status, there is no reason to prevent them from practicing these traveling trades. This circumstance is always specially noted.”⁴¹ The change seemed merely cosmetic, to satisfy the concerns of the judicial officials, but the justice ministry approved the new language and the book was published.

It is important to note here that the justice ministry had no objections to the categorization and publication of the names of Gypsies, and its concerns lay mainly with those who could be mistakenly identified as Gypsies and thus face the same kinds of discriminations applied to the category. In principle, the judicial authorities were not worried about the threat to equality before the law posed by singling out a group for persecution, but instead were concerned for the German citizens who might get caught up in the same net. However, even in this instance, the interior ministry took the concerns with the proverbial grain of salt, bowing only slightly to demands for upholding individual freedoms and the norms of the bureaucratic state. The end run around the law was only too easy to accomplish and executive authorities began the process of placing Gypsies in the state of exception. This treatment was tacitly agreed upon, even by the judicial authorities who objected to anti-Gypsy regulations out of a concern for those within the national body.

A similar kind of juridical objection was raised against the proposals stemming from the 1911 *Zigeunerkonferenz*. The Bavarian justice minister wrote:

In general, I have no objections to raise, but I allude merely to some objections that might be raised against the concept of the Gypsy mentioned in paragraph 1 of the program.

Such an understanding of the concept is present neither in the past regulations regarding the Gypsies, nor in the draft of a new regulation proposed as Article 45a in the police criminal penalty law. This draft instead names “those who move around like Gypsies” separately from “Gypsies,” and thus presents a significantly narrower definition than paragraph 1 of the program, which includes within it those people who move around like Gypsies.

According to the definition of the concept in paragraph 1 of the program, certain honorable persons practicing a trade could be included, especially traveling shows which travel from fair to fair, but cannot in any way be considered Gypsies.⁴²

He advised against trying to provide any specific definition of the term at all, like many of the representatives at the conference. Again, the concern stemmed from exactly the same place as the definition of the term in the *Zigeunerbuch* – seeking to protect the individual from the arbitrary exercise of sovereign power, but not objecting to the exclusion of those labeled as Gypsies from the norms of the bureaucratic state. The tension between the abstract individual and the persecuted group was brought to the surface, and the resolution was the state of exception.

As in Italy, the judicial authorities often protected individuals whose rights they felt had been violated, regardless of the fact that they were Gypsies. The protection the judiciary offered the individual against the arbitrary whims of the executive power served, however incidentally, as a venue for Gypsy resistance.

Resistance

Since the courts did often serve as unwilling protectors, those labeled as Gypsies were sometimes able to use them as an escape from unrelenting police authorities. Despite the myriad administrative regulations aimed at them, those labeled as Gypsies often found ways to resist being placed in the “state of exception,” and one of the most prominent ways they did so was by using the court system to their advantage. Concerted resistance to official “legibility” projects on the part of the state contributed to the development of a politicized Gypsy identity – the “radical ethnogenesis” posited by Scott.

Capobianco’s assertion that identification was the key to effective Gypsy control revealed one strategy of resistance: Gypsies often did change their personal identities in the face of the authorities in order to escape prosecution or penalties for recidivism or to more easily elude police surveillance or arrest warrants. Moreover, shifting identities could serve as a way to protect other members of the same family. In several Italian cases, those categorized as Gypsies after their arrest claimed to be orphans, and gave typical orphan names, like Giuseppe Lucchesi.⁴³ This made it more difficult for the police to track down their relatives.

The case of Domenico Magrini highlights this strategy of resistance. He was arrested for various minor thefts in 1872, and several witnesses testified that a Gypsy had passed by their houses in order to play the hand organ and beg. Magrini lied about his identity, offering fairly detailed information about another person, Antonio DeFilippi. The police were thwarted for some time by attempting to track down DeFilippi, and when they finally did, they discovered that he had

allegedly had his documents stolen by a “cosidetto Zingaro” (“so-called Gypsy”). At that point, Magrini admitted to his name, but lied about the details of where he was born and the names of his parents. After several months (his trial did not take place until a year after his arrest), the chief of public security in Alessandria found the “real” Domenico Magrini, who had been arrested in Tortona for illegal begging. The inspector said that the lies of Magrini were easy to explain “since Magrini belonged to the caste of *zingari*, and it is their habitual system of lying about their paternity, country of origin, age, and profession according to the circumstances.”⁴⁴ In the official charges in 1873, Magrini was specifically depicted as a “*zingaro*,” a rarity in cases dealing with individuals of Italian nationality. The probable explanation for the label was that Magrini had been born in Jesi, where there was a well-known and established settlement of Gypsies, whose existence again gave the lie to official government categorizations of all Gypsies as foreign.⁴⁵

As Capobianco alluded, the judicial and police authorities expended an enormous amount of time and money in determining a fixed identity for those categorized as Gypsies. Sometimes they were successful, but more often than not, they failed. The strategy of Gypsies directly challenged the efforts of both the Italian and German governments to make their populations “legible”, and made the supposedly routine expulsion of “foreign” Gypsies from both countries much more difficult. If the authorities could not determine someone’s identity beyond a doubt, it became increasingly difficult to expel them to another country, whose authorities demanded incontrovertible proof of their nationality. If the Gypsy in question was, in fact, an Italian national, like Magrini, the authorities were confronted with the fundamental contradiction of national policy stating that to be a Gypsy was equal to being foreign. The small strategy of creating a flexible identity in the face of judicial and executive authorities proved to be an effective “weapon of the weak” for those labeled as Gypsies, while simultaneously pushing frustrated executive authorities to resort to a state of exception.⁴⁶

Another effective strategy of resistance which took advantage of the juridical protections for the individual was the employment of lawyers by Gypsies arrested and prosecuted in a court of law. Relatively well-off Gypsies were often able to hire legal representatives who could navigate the narrow spaces between juridical norms and the state of exception. For example, in the LaFleur case, his lawyer convinced the court to end his unjust imprisonment. The assistance provided by lawyers like LaFleur’s was critical in allowing the Gypsies to fight back against a system that had been clearly rigged against them.

The Ciuron family provides another example of this strategy. Before the outbreak of cholera in summer 1910, the Austro-Hungarian Ciuron family was traveling around Tuscany with valid passports, exhibiting generally “good conduct,” which made it difficult for the authorities to arrest and expel them. They lived in Rome, and practiced their profession of coppersmithing without incident, but nonetheless had been detained by the local public security authorities. The authorities had written to the Austro-Hungarian consulate, which had defended the family’s right to rent land in Italy, since their papers were completely in order. Then the prefect of Florence had written to Rome, requesting the family’s expulsion. The family responded by contacting a lawyer who was a faculty member at the University of Rome, who wrote to the interior ministry in the family’s name. In the letter, he stated that they were coppersmiths who had resided in Italy since 1905, and that they had also resided in France, Belgium, and Switzerland. He stated that the family had a decent income and that they were landowners in Galizia. Since they were “hardworking and honest” they had never been hindered in practicing their profession. Now, however, he stated, they were renting a piece of land near Florence that the authorities wanted to clear. As a result, the authorities had threatened them with expulsion if they did not vacate the land.

Now those gentlemen [the Ciurons], in the name of their troupe, declare to the illustrious gentleman [minister of the interior] that they will remove their tents from Florence by 3 April, and that they will depart, some of them going to Crema and Cremona, and others to Rome, to practice their profession, and they will not forget to alert the local public security authorities according to the law.⁴⁷

Since the family was clearly feeling a great deal of pressure from local public security authorities, they had hired a lawyer to protect their interests and to prevent their expulsion. It worked, for at least a short time, and the family received permission to reside in Italy legally. However, in November 1910, the interior minister sent a telegram to the prefect of Rome, instructing him to revoke their residence permits. The rest of the Ciuron family residing elsewhere in Italy had already been expelled.⁴⁸ Thus, what the lawyer could protect them from in March, he could not protect them from in November. The cholera outbreak made the executive authorities even more determined to deal with the Gypsies outside of the law.⁴⁹ The entire Ciuron family was expelled. When Italian executive authorities were working within the confines provided by the legal

system, the Ciurons could respond to state repression and persecution by consulting a lawyer to protect their interests; once the authorities sought to control Gypsies outside of the confines of the law, there was little they could do to protect themselves from an arbitrary state of exception.

Gypsies also made use of the German legal system as a form of resistance. For example, in 1907, Jakob Reinhardt, identified as a Gypsy in the *Zigeunerbuch*, went to court because he had been denied a permit to practice a traveling trade. The court upheld Reinhardt's reasoning, arguing that there were no legitimate legal grounds to deny him the permit, and he received it.⁵⁰ In similar cases from the same region of Mittelfranken in 1908, both Maria Krieger and Margareta Störzer received traveling trade permits despite their classification as "Gypsies" once they turned to the courts to appeal their initial denial.⁵¹

In 1910, Anton and Therese Rosch lodged a formal complaint regarding their illegal detention. The couple was listed in the *Zigeunerbuch*, and was arrested in February 1910 by the *gendarmérie* in Mindelstetten in Bavaria. The court threw out the order for their detention two days after their arrest, on the grounds that they were not vagabonds, since they had sufficient money as well as legitimation papers. The Bavarian prosecutor appealed the decision to the highest Bavarian court (*oberste Landesgericht*), who threw out the appeal and supported the lower court. Despite this, the authorities kept the couple in detention, and the Rosch couple appealed again on February 6, 1910. The authorities denied the appeal, and stated that they "had taken into consideration that just recently in Mindelstetten there have been several complaints about the Gypsy nuisance and that the help of the local administration [*Bezirksamt*] in Riedenberg would only be welcomed." Rosch had a passport issued in Berlin, and the administration had written to Berlin to see if they had any objections to their return to Prussia, but had not received an answer. The Roschs' children had been taken away and were living with a farmer in Mindelstetten.⁵² The case, much like that of the Ciurons in Italy, demonstrated that Gypsies often tried to use the legal system and its norms in their own favor, and as a way to resist their unfair treatment at the hands of the authorities. Oftentimes, their attempts were successful, but that success in turn increased tension with executive authorities and pushed them to seek the alternative of the state of exception. The Roschs were held even after their successful appeals, on the shakier ground of reported begging, and pending their expulsion to Prussia, despite their possession of valid identity documents. The

documents were then confiscated during their detention – taking them one step closer to the status of *homines sacri*.

Obscuring their identities and taking recourse in the judicial system were two important ways that Gypsies resisted their marginalization in both Germany and Italy. However, like many other marginalized groups, their actions provoked harsher reactions on the part of the authorities, who grew increasingly frustrated with the norms of the rational bureaucratic state. Since they kept running up against the limitations imposed on the executive by the judiciary, the executive authorities tried to find ways around it by exercising their own prerogative power.

Conclusion

Capobianco's treatise ends with suggestions for how to "solve" the problematic encounter between Gypsies and the law. His solution sounded much like a French law of 1912 mandating the *carnet anthropometrique* for French Gypsies. The identity papers made it easier to track, arrest, and prosecute Gypsies in France. He argued that the Gypsies in Italy had been living in "a state outside of the law" for a long time, and he proposed bringing them into the law through specific legislation targeting the group.⁵³ Capobianco's ideas about Gypsy control, Alessandro Simoni argues, came out of the positivist school of criminology. The positivists were struggling with more liberal conceptions of law and thus, "in Italy at the beginning of the new century, any proposals of law targeted against Gypsies "à la France" would have had to compete with liberal jurists, who...remained vigilant in the face of any form of arbitrariness."⁵⁴ As he points out, Italian jurists responded unfavorably to the French law, the editor of *Rivista Penale* going so far as to say that it violated the "expression of liberty which dominates modern times" and which "absolutely overrides the actual need for protection against a class of persons who only *may become* dangerous."⁵⁵ Lucchini demonstrated a clear reaction against the spirit of positivist criminology and the countervailing liberal conviction that individuals should be equal under the law. The spirit of liberal universalism, combined with the norms of the modern bureaucratic state, kept Italy from following Capobianco's advice to create special laws against the Gypsies, and thus kept open avenues of resistance for Gypsy populations. This was the case in Germany as well.⁵⁶ Nonetheless, the reluctance on the part of the jurists to violate the sanctity of the individual in confrontation with the state also had the consequence of exposing a weakness of liberal universalist norms: the ability of the executive to create a state of exception to

deal with particular individuals outside of the law. The force of nationalism, which sought to eradicate unwanted outsiders from the national body, aggravated this weakness and tempted executive officials to use their discretionary powers to shape the national community in the manner they desired. The individuals in the state of exception were stripped of the protection offered by the rule of law, and had little recourse against their arbitrary treatment at the hands of the executive powers.

Executive authorities on a national, regional, and local level created categories of exclusion, like the Gypsies, and those exclusions were reinforced by police and administrative regulations. The members of the category, here the Gypsies, turned to the judiciary, which within the confines of the state, could protect them as individuals, and often did. Yet, the courts' protection only extended as far as the executive power let it, and when pushed, the executive officials displayed a willingness to depart from judicial norms in support of a stronger nation.

7

Conclusion: The Modern Bureaucratic State and Gypsy Exclusion

Being turned away by several archives in Italy because, in the words of archivists, there “were no Gypsies in Italy at that time” kept echoing in my mind as I researched and wrote this book. The idea that “Gypsies” were a new phenomenon in Italy, a result of the immigration, both legal and illegal, that had taken place following the end of the cold war and the break-up of Yugoslavia, stands as testament to the very effectiveness of Italian anti-Gypsy policy at the turn of the 20th century. If national authorities adjusted the category of Gypsy to mean non-Italians, and followed through on that assumption, as they did during the cholera outbreak of 1911, in both public and official memory, the people they ascribed to that category effectively disappeared. The Italian state accomplished this goal in a way that I think James C. Scott, Giorgio Agamben, and Hannah Arendt would agree was thoroughly “modern” and bureaucratic in nature. Gypsies ended up existing in a virtual no-man’s land – as “nationality” trumped “citizenship” over the course of the 20th century, as both Gosewinkel and Arendt argue that it did, Gypsies were stripped of their claims to citizenship and nationality, belonging nowhere and welcomed nowhere by virtue of their very ascription to the category of Gypsy. Their existence was tied intrinsically, however, to the sovereign, constituting power of the state, which nearly exclusively had control over their fates as members of the category. Families like the Levakoviches found themselves in a vicious cycle of dispossession and expulsion, which they had a harder and harder time overcoming because their traditional methods of resistance (name changes, appeals to the judiciary, the defense of equality before the law) became less and less effective in the “state of exception” where the law no longer applied – only the wishes of the sovereign power. The idea that Gypsies existed outside of the Italian national community thus was

a method of practice by the beginning of the 20th century – and the disappearance of people labeled as Gypsies shapes the contours of the category *zingari* today. They are always already outside of the community. If the categorization of Gypsy is not applied, however, because of unassailable citizenship claims, assimilation (not acculturation) is possible.

What of Germany, then? While the Italian archives had virtually no official record of the existence of Gypsies on Italian soil, the case was certainly very different for Germany. German officials kept extensive records, particularly in Bavaria, but also in other border states of the *Kaiserreich*, of what they often called the “Gypsy nuisance.” Rather than completely disappearing from view, Gypsies became the target of intense scrutiny by executive authorities, who sought at the turn of the 20th century to label, categorize, stigmatize, and separate out Gypsy populations from the rest of the German population. They became, in other words, highly visible as a category, if still difficult to discern, as I have shown, on an individual or community level. However, what seemed at first to be an obvious difference grew less so upon further examination. Like the Italian authorities, German executive officials, particularly on the regional state level, consciously chose to avoid legislative and judicial authorities when dealing with Gypsies. At first glance, that statement might seem like a rehashing of the old narrative of the authoritarian, *Sonderweg* image of the *Kaiserreich*, but the reality was certainly more complicated than that.¹ In fact, it seems that in both the Italian and the German cases, it was their very adherence to the liberal and universal norms of the modern bureaucratic state that led both states to choose the state of exception over repressive legislation before World War I.

As a historian looking back at the often confusing and contradictory maze of German policies regarding Gypsies during this period, I often found myself asking why government officials did not simply propose and the chancellor initiate a law making it illegal to be a Gypsy, imposing criminal penalties and stripping German Gypsies of claims to nationality, since the underlying desire of all these policies seemed to be reaching for just this very goal. I asked the same question about Italy. The answer, I think, lies again with the necessities of the modern state and its “legibility.” In order to gain legitimacy and to consolidate power, modern bureaucratic states had to operate within the sphere of the rule of law, and were, by the late 19th century, more responsible to their own citizens. As Foucault argues, the transition to the modern state occurred when the sovereign ceased to act in an arbitrary and

unpredictable manner and handed over most of his power to a network of institutions that operated in a diffuse and more predictable manner.² Territory is no longer the object of power, but population – groups of people participating in and ruled by governmental power. These people give their consent to be governed because the modern state offers them the protection offered by the rule of law, incorporating them into a community (usually conceived of as national). The sovereign, however, still operates outside of that network, asserting the fundamental power of life and death over those who are left out of that network of power generated by institutions and populations. As James Scott points out, there are groups of people who resist the forced legibility projects of the modern bureaucratic state, and the representatives of that state were stymied in their attempts to force the populations to “civilize” according to their norms. The “barbarians” were always already outside of the law, and sometimes they resisted nationalization projects. Simply passing a law against such a group would not change anything, and would violate the principles of universalism inherent in rationalist bureaucratic norms.

In both Germany and Italy, legislators called for anti-Gypsy laws, and particularly in Germany, where a law against the free movement of Gypsies was proposed almost annually in the *Reichstag* in the opening years of the 20th century. However, the “expression of liberty which dominates modern times” made a repressive law against the Gypsies an unpalatable alternative for German and Italian executive authorities.³ The “Gypsy nuisance” was not confined to Germany and Italy and other European nation-states employed different solutions. Their marginalization and persecution of Gypsies was in no way unique to them and therefore an association between fascism and Nazism and the persecution of Gypsies is not, as I have argued here, the most useful lens for understanding the situation of Gypsies in the modern nation-state. Instead, the marginalization of Gypsies provides further evidence *against* the narrative of Italian exceptionalism (the Gramscian *rivoluzione mancata*) and German exceptionalism (the *Sonderweg* thesis). *Gypsies in Germany and Italy, 1860–1914* demonstrates that states that do adhere to the rule of law and the equality of the individual before the law have clear access to the “state of exception,” which has real, damaging, and long-term consequences for those who are placed in it.

Giorgio Agamben’s theorizing of the “state of exception” has its genesis in contemporary history and is inspired at least partially by Judith Butler’s work on Guantanamo detainees. Butler asserts in her groundbreaking article “Guantanamo Limbo” that “It is not just that some

humans are treated as humans, and others are dehumanized; it is rather that dehumanization – treating some humans as outside the scope of the law – becomes one tactic by which a putatively distinct ‘Western’ civilization seeks to define itself over and against a population understood as, by definition, illegitimate.”⁴ The tactic of placing particular unwanted groups *outside* of the law has its origins in the very structure and nature of the modern, Western, nation-state.

In *Origins of Totalitarianism*, Arendt points out that the “danger” of the “transformation of the state from an instrument of the law into an instrument of the nation” existed from the very origins of the nation-state.

But insofar as the establishment of nation-states coincided with the establishment of constitutional government, they always had represented and been based upon the rule of law as against the rule of arbitrary administration and despotism. So that when the precarious balances between nation and state, between national interest and legal institutions broke down, the disintegration of this form of government and of organization of peoples came about with terrifying swiftness.⁵

Like Agamben, Arendt sees the treatment of the Jews in Europe in the years after World War I as the first signal of the collapse of the rule of law and the victory of nation over state. Again, however, the treatment of Gypsies described here seems to push toward a temporal expansion of the analysis. Gypsies were, and still remain, outside of the law in many ways. The ease with which Sarkozy and Hollande have pushed out Romanies from France, the constant battles in Great Britain over Romany settlements and rights, or even the racist spectacle of “gypsy” life offered by shows like “My Big Fat Gypsy Wedding” are a testament to the enduring perception of Romanies as belonging nowhere. While Western European nation-states today would shy away from specific anti-Roma laws, the “state of exception” allows them to treat Romani populations as functionally stateless and rightless by nature of their assumed non-belonging. While the nation-state may have declined in importance, human rights are still very much based in the nation. The 19th-century Italian nationalist Mazzini asserted, “without Country you have neither name, token, voice, nor rights, nor admission as brothers into the fellowship of the Peoples. You are the bastards of Humanity.”⁶ Mazzini’s argument continues to resonate today. Butler cogently asserts the difficulty of this when thinking about non-national actors like

the Taliban or international terrorist organizations. And perhaps the connection between the treatment of Romanies in the 21st century and the early 20th century lies precisely in the problem of the nation-state outlined by Arendt – it is an inherently fragile institution, and in times of upheaval, its fault lines are exposed. Germany and Italy were very new nation-states in the early 20th century, and the nation-states of Europe now feel threatened by their own economic and political fragility and their perceived loss of national sovereignty. Arendt tells us that

The nation-state cannot exist once its principle of equality before the law has broken down. Without this legal equality, which originally was destined to replace the older laws and orders of the feudal society, the nation dissolves into an anarchic mass of over- and underprivileged individuals. Laws that are not equal for all revert to rights and privileges, something contradictory to the very nature of nation-states. The clearer the proof of their inability to treat stateless people as legal persons and the greater the extension of arbitrary rule by police decree, the more difficult it is for states to resist the temptation to deprive all citizens of legal status and rule them with an omnipotent police.⁷

The Gypsies of Germany and Italy, and their experience under the nationalizing states at the turn of the 20th century, provide more evidence that the state of exception unmasks the contradictions inherent at the very core of the modern nation state – is the rule of law possible when the nation is conceived of as a hierarchical assembly of people? Will the nation always get in the way of the state, as Arendt seems to think? And if the stateless cannot be protected by the law, then can anyone be protected by the law?

The thinking of Arendt, Agamben, and Butler helped me to provide an answer to the question of why German and Italian authorities did not enact a specifically anti-Gypsy law, and why that led to a relatively “successful” outcome – the elimination of the category of German and Italian Gypsies from the national community within the boundaries of a constitutional order rooted in modern universalist legal norms. As occurred in France, executive authorities could have decided to make a law restricting, controlling, and limiting the rights of Gypsies, but it seems to me that the choice to avoid that route was based in reasoned debate about the very possibilities of the state of exception. For example, the debates from the *Zigeunerkonferenz* of 1911 made it clear that the participants understood the advantages of executive versus legislative

intervention in the problem of stateless Gypsies. As Dillmann himself put it in the introduction to the conference program, Germany came "from the standpoint that the solution of the Gypsy question cannot be undertaken through legislation on the level of the Reich or the individual states, but that this goal is best achieved through the creation of a list of unified administrative regulations."⁸ Giolitti's director of public security also clearly saw the dangers in legislating Gypsy policy, when in 1909 he refused participation in an international congress designed to end Gypsy statelessness, because it would risk "our having to admit permanently on our territory and to consider as citizens, those persons who have no homeland, are nomads by nature and generally not inclined towards regular conduct."⁹ Executive authorities saw the clear disadvantages in submitting Gypsies to the law because of the very protections offered by normative, universalist laws. Agamben argues that the treatment of "detainees" in Guantanamo could only be compared to "the legal situation of the Jews in the Nazi *Lager* [camps], who, along with their citizenship, had lost every legal identity, but at least retained their identity as Jews."¹⁰ Long before the institution of the *Lager*, executive authorities understood the benefits and efficiencies of utilizing the state of exception to deal with unwanted groups, without overtly violating the norms of the universal applicability of law.

Gypsies in Germany and Italy 1861–1914 has provided an in-depth view of how Agamben's "state of exception" can emerge on the ground, and it does so with a group of people that Agamben did not consider (or would not have thought to consider) in his analysis. "Gypsy" was a category (re)defined by executive officials by the 19th century as permanent "barbarians," there was little escaping it, and over time those within the group began to resist both their treatment and develop their own flexible ethnic identity to argue for an end to their persecution. By the middle of the 19th century, the category of Gypsy had received its "modern" contours: those ascribed to the category were assumed to be criminal, dirty, immoral, and certainly "non-national." The police were the institutional mechanism of discipline in the modern nation-state, and thus were the people who came into direct contact with Gypsies most often: they were in charge of implementing the directives handed down by executive authorities. However, what seemed like it should have been a simple process of identification and marginalization within the boundaries of the law proved quite difficult in practice, as I showed in the case of the Grisettis or Teresa Marengo in Italy, or the Muzik family in Bavaria. The police were never quite sure who was a Gypsy and who was not, and the evidence was very rarely clear cut. The

resulting police frustration with the Gypsy “problem” demonstrated the contradictions inherent between the rule of law and the targeting of an unwanted minority. Their inefficacy at carrying out the demands of the executive proved frustrating to executive officials as well, who sought more creative ways to deal with Gypsies while increasingly circumventing the laws.

In Italy, the convenient and flexible definition making the idea of an Italian Gypsy an impossibility, engendered obvious contradictions like a classification for *vagabondi* or *girovaghi Italiani*, and created complex cases like those of Giovanni Bosco, or Giuseppe Laforet/Lucchesi, who had proof of Italian birth, but were categorized as *zingari* or Italian “vagabonds” depending on which officials they encountered. The Italian vagabonds remained within the law, despite their marginalization and persecution. The *zingari* who could be expelled and could not prove their Italian belonging increasingly slipped into a gray area where they lost any claims to nationality whatsoever and were enmeshed in a cycle of criminalization, expulsions, and confiscation of their property. Bringing this category into the law would mean an official acknowledgement of their existence on Italian soil, and thus the extension of the rule of law to them. Italian executive authorities consistently chose to use the universalist laws on the books to deal with vagabonds, beggars, brigands and the like, and pushed *zingari* into a separate category outside of the law.

While German authorities acknowledged the existence of the category of German Gypsies, they also deliberately sought to push German Gypsies toward the category of “foreign” Gypsies, where the protections of the law ceased to apply. They abandoned the Enlightenment experiment in assimilation represented by the colony at Friedrichslohra, and sent men like Otto Blum into a state of exception where he gradually lost access to his livelihood, his lifestyle, and his home. Blum became a *homo sacer* whose existence was dependent on the whim of executive power and who had no recourse to any legal status or protections in any nation. Fewer and fewer German Gypsies were able to cling to their tenuous grasp on national belonging, as executive authorities increasingly viewed them as a nuisance who lacked true claims to “Germanness.”

The evolution toward the state of exception in both countries had devastating consequences on families like the Levakoviches in Italy, or Theodor Schmidt in Germany. In the years leading up to World War I in Italy, the sudden high visibility of Gypsies forced upon the government by the cholera outbreak of 1910 and 1911, blamed on Russian Gypsies, led executive authorities to discuss and play out the consequences of

their long time denial of the legal residence of Gypsies on their soil. The contradictory category of "*vagabondi Italiani*" was dissolved into a group of stateless Gypsies, ultimately sent to Brazil because the Italian state could find no other home for them. Italian Gypsies could not and would not exist, and the executive grew determined to make their policy reality in 1911. At the same time, officials from the borderland states of the *Kaiserreich* felt the increasing international pressure, the internal pressure from Bavaria and Prussia, and decided that something had to be done about the Gypsy problem – but that the solution could not effectively be legislative. The category of German Gypsies was acknowledged as contradictory, and the concept of Gypsy clearly moved more toward the Italian model: to be German and Gypsy was to be a contradiction, since no good German would exhibit the constitutive qualities of the Gypsy: criminal, dirty, immoral, and transient. To act like a German was to cease being a Gypsy, and vice versa. The state of exception for Gypsies had been established by World War I in both Italy and Germany. Without violating the principles of the equal applicability of the law, executives in both states had succeeded in creating "Gypsy" as a category outside of the law, to be dealt with arbitrarily by the executive power of the state.

The judiciary plays a complex role in the story told here, because it serves as one of the few examples of governmental institutions that could and sometimes did serve to guarantee stateless Gypsies their most basic rights. Simultaneously, the very adherence of the courts to the rule of law helps to explain why the state of exception proved so appealing to executive authorities. While the archival record offers little evidence of how those labeled as Gypsies responded to their treatment by the executive authorities, the documents that do exist indicate that those within the category were remarkably aware of the contours of the category and the ways to resist that categorization. The more ardent the resistance by Gypsies, the more appealing the state of exception became for executive authorities. When the law no longer applied, its protections could no longer be "exploited" by the Gypsies themselves, a viewpoint common at the time among jurists like Alfredo Capobianco. James Scott argues that the ability of non-state groups to resist legibility projects of the state and carve out an independent economic niche for themselves dissipates by the early 20th century, and in Germany and Italy, the closing of any possibilities of survival outside of the state are clearly apparent by World War I.

When the rule of law is in place and it is applied (relatively) uniformly, it can serve to protect groups, like the Gypsies, who are viewed

as outsiders to the national community. However, the rule of law does not eliminate the state of exception, as is clear in the case of Gypsies in early 20th-century Germany and Italy. Is the answer to the ubiquitous state of exception to create a more encompassing rule of law, not based on the ideas of national sovereignty, but on the nationless or “cosmopolitan” citizen?¹¹ Can rights and the protection of the rule of law be tied not to the national citizen, but to the human individual? Is the solution pragmatic? Each of these questions is difficult to answer and the counterargument to a Habermasian notion of cosmopolitan citizenship has been that it is impractical, emotionally unappealing, and an idealistic, impossible goal because it begins with the mistaken and problematic notion of universalism, a fictitious category based historically more on exclusion than inclusion. Yet, the ability of the Gypsies in Germany and Italy to protect themselves, to some measure, through a court system inherently stacked against them stands as a strong testimony to the capabilities of the universalist, normative rule of law. If Gypsies could emerge from the state of exception to make an appearance in court, they had a chance, even if a small, limited one, to resist the power and arbitrariness of the modern bureaucratic state. In the case of Gypsies before World War I in Germany and Italy, the rule of law seemed to serve both a protective and a discriminatory function simultaneously. The interactions between Gypsies and the judiciary in both countries revealed both the strengths and the weaknesses of the rule of law to the executive authorities who wanted Gypsies outside of the national body.

The state of exception still exists, as Agamben points out, and it has only grown stronger and broader since the beginning of the 20th century. Thus, the problem of statelessness that Arendt warns about after the devastation of World War II has not yet been solved, and the state of exception continues to be applied to Romanies today. Like the “enemy combatants” described by Agamben and Butler, Romanies are under intense scrutiny, but juridically invisible. They are splashed on our televisions as images of outsiders who do not fit and are not like us, which reinforces our assumptions of their “barbarity” and excuses our harsh treatment. Modern nation-states have done such an excellent job in placing the category of Gypsy in a state of exception that many are convinced that they legitimately belong there, and the treatment of those placed in the category is somewhat deserved. I cannot begin to count how many times, when I explain my research and interests to colleagues, I hear a story of how “Gypsies” stole their wallet on a European vacation. The state of exception has worked to create a category of persons who do not “deserve” rights, or national status, or citizenship, because they

“steal”, “lie”, or “cheat.” When Vivian Reding pointed out the parallels between Sarkozy’s expulsions of the Roma in 2011 and the Nazis, she pointed to the state of exception unknowingly – Sarkozy wasn’t acting like Hitler, he was acting in a way that proved effective for Germany and Italy in the early 20th century and that will, unless our conceptions of citizenship change radically, continue to prove effective – they are the exceptions, tied to the power of the executive, but existing permanently outside of the communities to which they belong.

Notes

1 The Modern Bureaucratic State of Exception

1. I will utilize the term “Gypsy” throughout this book, as opposed to Romani, Roma, etc. I use the term because I am speaking of state treatment of populations they labeled as Gypsies, and who cannot be identified as necessarily of Romani origin or ethnicity.
2. I conducted a search for the following key words: zingaro, zingara, Zingari, girovago/a, vagabondo/a, saltimbanco, ginnastico, suonatore ambulante, mercaio ambulante, negoziante ambulante, calderaio, mediatore, mediatore di cavallo, sensale, sensale di cavallo, straccivendolo, conduttore dei bestiame, orsi, scimmie, prestigiatore, sonnambula. In total, I found 132 cases using the above criteria. From that point, I read the individual cases to attempt to determine if the parties concerned were classified as *zingari*, which was somewhat difficult since “*zingari*” did not exist as a juridical category. Nine of the cases in the database had the defendants clearly labeled as “*zingari*”, but in the others I proceeded by reading the case files, which (usually, but not always) contained the following documents: the official judicial decision, a copy of the sentence, a “rap sheet” for the accused, information from the mayor of the town in which the person was born, information from the local city/town council regarding the “voce pubblica” (public opinion) regarding the accused, witness depositions, interviews of the accused, any letters or communication from the defendant and his or her lawyer, notice of filing an appeal, reasons for filing appeals and various other documents. Clues as to whether the people were classified as Gypsies emerged most frequently from either the defendants’ accounts of themselves or from witness testimony. In cases in which none of these direct signals occurred, I attempted to verify possible Gypsy origins by last name coupled with profession. These are the cases that form the majority of my analysis of the Italian case, coupled with the Rome files from 1910–11, a few court cases I was able to find in Turin, and some miscellaneous interior ministry communications I found in Turin.
3. I use the term “information state” in the sense utilized by Edward Higgs in *The Information State in England* (Basingstoke: Palgrave Macmillan, 2004).
4. Angus Fraser, *The Gypsies* (Oxford: Blackwell, 1992), 248.
5. See here Higgs, *Information State*, as well as Leo Lucassen, “Between Hobbes and Locke: Gypsies and the Limits of the Modernization Paradigm,” *Social History* 33, no. 4 (2008): 423–41; Jane Caplan and John Torpey, *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton, NJ: Princeton University Press, 2001).
6. Christopher Dandeker, *Surveillance, Power, and Modernity: Bureaucracy and Discipline from 1700 to the Present Day* (New York: St. Martin’s Press, 1990).
7. Leo Lucassen, “Between Hobbes and Locke,” 440.

8. Dandeker, *Surveillance, Power, and Modernity*, 10–11.
9. James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998), 64–71.
10. Jane Caplan, “‘This or That Particular Person’: Protocols of Identification in 19th Century Europe,” in Caplan and Torpey (eds), *Documenting Individual Identity*, 60–61.
11. Scott, *Seeing Like a State*, 81.
12. Lucassen, “Between Hobbes and Locke,” 440.
13. Scott, *Seeing Like a State*, 89.
14. James C. Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven: Yale University Press, 2009), 121–2.
15. F. Peter Wagner, “‘A Finger for Berlusconi:’ Italy’s Anti-immigration/Anti-crime Measures, Romanian Realities and the Poverty of European Citizenship,” *Politische Italien-Forschung Occasional Papers* 4 (2009).
16. BBC News Europe, “EU Nations and Roma Repatriation,” September 17, 2010, <http://www.bbc.co.uk/news/world-europe-11344313>.
17. BBC News Europe, “EU Nations and Roma Repatriation.”
18. Editorial Board, “Scapegoating the Roma, Again,” *The New York Times*, October 13, 2013.
19. Alexandra Topping, “Dale Farm Evictions Signal End of Traveller Lifestyle, Say Gypsies,” *The Guardian*, September 18, 2011, <http://www.guardian.co.uk/uk/2011/sep/18/dale-farm-travellers-lifestyle>.
20. BBC News Europe, “EU Nations and Roma Repatriation.”
21. Robert Zaretsky and Olivia Miljanic, “France and the Gypsies, Then and Now,” *The New York Times*, September 6, 2010.
22. Martine Kaluszynski, “Republican Identity: Bertillonage as Government Technique,” in Caplan and Torpey (eds), *Documenting Individual Identity*, 133.
23. Higgs, *The Information State in England*.
24. Ian Hancock, “Responses to the Porrajmos: The Romani Holocaust,” in Alan S. Rosenbaum (ed.), *Is the Holocaust Unique? Perspectives on Comparative Genocide* (Boulder, CO: Westview Press, 2001). Hancock gives a good overview of the debates surrounding the genocide of Gypsies by the Nazis.
25. Lucassen, “Between Hobbes and Locke.”
26. Higgs, *The Information State in England*, 95.
27. Higgs, *The Information State in England*, 114.
28. Søren Kierkegaard, quoted in Carl Schmitt, *Political Theology*, trans. George Schwab (Chicago: University of Chicago Press, 2005), 15.
29. Schmitt, *Political Theology*, 5.
30. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd Vintage Books edn (New York: Vintage Books, 1995), 200–4.
31. Foucault, *Discipline and Punish*, 198.
32. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA: Stanford University Press, 1998), 82.
33. Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005), 35 (emphasis in the original).
34. Agamben, *Homo Sacer*, 25 (emphasis in the original).
35. Agamben, *Homo Sacer*, 100.
36. John Breuilly, “Approaches to Nationalism,” in Gopal Balakrishnan (ed.), *Mapping the Nation* (London: Verso, 1996), 166.

37. Breuilly, "Approaches," 170.
38. Scott, *The Art of Not Being Governed*, 256.
39. Scott, *The Art of Not Being Governed*, 265.
40. Rogers Brubaker, *Ethnicity without Groups* (Cambridge, MA: Harvard University Press, 2004), 13.
41. Pierre Bourdieu, "Rethinking the State: Genesis and Structure of the Bureaucratic Field," in George Steinmetz (ed.), *State/Culture: State Formation after the Cultural Turn* (Ithaca, NY: Cornell University Press, 1999), 68.
42. Bourdieu, "Rethinking the State."
43. Lucassen, "Between Hobbes and Locke," 434.
44. Lucassen, "A Many Headed Monster: The Evolution of the Passport System in the Netherlands and Germany in the Long 19th Century," in Caplan and Torpey (eds), *Documenting Individual Identity*, 248.
45. Lucassen, "A Many Headed Monster," 253.
46. John Zvesper, "Liberalism," in David Miller (ed.), *Blackwell Encyclopedia of Political Thought* (Oxford: Blackwell Publishers, 1991), 286.
47. Higgs, *Information State in England*, 101.
48. Agamben, *Homo Sacer*, 179.
49. Hannah Arendt, *Origins of Totalitarianism* (San Diego: A Harvest Book, 1968), 283–4.
50. Fraser, *The Gypsies*, 9.
51. See also the conclusions drawn by Marion Bonillo, who shows that according to a census of *Zigeuner* ordered by Bismarck in 1886, most *Zigeuner* were sedentary. Bonillo, "*Zigeunerpolitik*" *im deutschen Kaiserreich 1871–1918* (Frankfurt am Main: Peter Lang, 2001).
52. Leo Lucassen, Anne Marie Cottaar, and Wim Willems, "Introduction," in *Gypsies and Other Itinerant Groups: A Socio-Historical Approach* (New York: Palgrave, 1998), 2.
53. Lucassen, Cottaar, and Willems, "Introduction," 5.
54. Lucassen, Cottaar, and Willems, "Introduction," 9–10.
55. Wim Willems, "Ethnicity as a Death Trap," in Wim Willems, Leo Lucassen, and Annemarie Cottaar (eds), *Gypsies and Other Itinerant Groups: A Socio-Historical Approach* (New York: Palgrave, 1998).
56. Thomas Acton, "Modernity, Culture, and 'Gypsies': Is There a Scientific Method for Understanding the Representations of 'Gypsies'? And Do the Dutch Really Exist?" in Nicholas Saul and Susan Tebutt (eds), *The Role of the Romanies: Images and Counter Images* (Liverpool: Liverpool University Press, 2004), 98.
57. Hancock, "Responses to the Porrajmos"; Joachim Stephan Hohmann, *Verfolgte ohne Heimat: Geschichte der Zigeuner in Deutschland, Studien zur Tsiganologie und Folkloristik, Bd. 1* (Frankfurt am Main; New York: Peter Lang, 1990); Guenter Lewy, *The Nazi Persecution of the Gypsies* (New York: Oxford University Press, 2000); Michael Zimmermann, "Ausgrenzung, Ermordung, Ausgrenzung. Normalität und Exzeß in der polizeilichen Zigeunerverfolgung in Deutschland (1870–1980)," in Alf Lüdtke (ed.), *Polizei, Gesellschaft und Herrschaft im 19. und 20. Jahrhundert* (Frankfurt am Main: Suhrkamp Verlag, 1992); Michael Zimmermann, "Von der Diskriminierung zum 'Familienlager' Auschwitz. Die nationalsozialistische Zigeunerverfolgung," *Dachauer Hefte 5, Die vergessene Lager* (1994).

58. Angelika Albrecht, *Zigeuner in Altbayern 1871–1914* (Munich: Verlag Michael Lassleben, 2002); Rainer Hehemann, *Die "Bekämpfung des Zigeunerunwesens" im Wilhelminischen Deutschland und in der Weimarer Republik, 1871–1933* (Frankfurt am Main: Haag + Herchen Verlag, 1987); Joachim Stephan Hohmann, *Geschichte der Zigeunerverfolgung in Deutschland*, rev. ed. (Frankfurt/Main: Campus Verlag, 1988); Hohmann, *Verfolgte ohne Heimat: Geschichte der Zigeuner in Deutschland*; Leo Lucassen, *Zigeuner: die Geschichte eines polizeilichen Ordnungsbegriffes im Deutschland, 1700–1945* (Köln: Böhlau, 1996); Michael Schenk, "Rassismus gegen Sinti und Roma: zur Kontinuität der Zigeunerverfolgung innerhalb der deutschen Gesellschaft von der Weimarer Republik bis in die Gegenwart" (Frankfurt am Main: Peter Lang, 1994); Bonillo, "Zigeunerpolitik" im deutschen Kaiserreich 1871–1918.
59. Bonillo, "Zigeunerpolitik" im deutschen Kaiserreich 1871–1918.
60. Leo Lucassen, "A Brave New World, the Left, Social Engineering, and Eugenics in 20th Century Europe," *International Review of Social History* 55 (2010): 265–96.
61. Bonillo, "Zigeunerpolitik" im deutschen Kaiserreich 1871–1918, 221.
62. "'Anti-Gypsyism Is Not a New Phenomenon.' Anti-Gypsyism Research: The Creation of a New Field of Study," in Thomas Acton (ed.), *Scholarship and the Gypsy Struggle* (Hertfordshire: University of Hertfordshire Press, 2000), 64.
63. Acton, *Scholarship*, 66.
64. Scott, *The Art of Not Being Governed*, 172.
65. Some ethnographic work present in the *Journal of the Gypsy Lore Society* and published monographs do use ethnic categorizations of various Gypsy groups and languages.
66. For a brief, yet useful explanation of the difference between these two terms, see: Rita Chin et al., *After the Nazi Racial State* (Ann Arbor, MI: University of Michigan Press, 2009), 4–5.
67. E. Cerulli, *Dalla parte degli Zingari* (Torino: Centro Sociale Nomadi, 1981); V. DeFlorio, *Zingaro mio fratello* (Torino: Ed. Paoline, 1986); Mirella Karpati, "Gli Zingari in Italia," *Lacio Drom* 13, no. 6 (1977): 30–8; E. Marcolungo and M. Karpati (eds), *Chi sono gli Zingari* (Torino: Ega, 1985); Annamaria Masserini, *Storia dei nomadi: La persecuzione degli Zingari nel XX secolo* (Padova: Edizioni GB, 1990); Giorgio Viaggio, *Storia degli Zingari in Italia* (Anicia: Centro di Richerche Zingare, 1997), 91–102; Maria Zucconi, "La Legislazione sugli Zingari negli stati Italiani prima della rivoluzione," *Lacio Drom* 15, no. 1–2 (1979): 3–66.
68. Piasere uses the term Rom to signify those who are denoted by authorities as *zingari* and would today be considered to be ethnically Roma. As an anthropologist, he wants to limit his scope to the ethnic grouping, not the broader category of *zingari* as a whole, which included and includes other travelers who are not ethnically Roma or Sinti. Piasere differs here from Lucassen and Willems to some extent, since he does believe that there is a distinct Rom ethnicity for Rom existing from their initial migration into Europe in the 15th century. However, he believes that this ethnic identity has changed, splintered, disappeared, and reappeared in response to cultural surroundings.
69. Leonardo Piasere, *I Rom d'Europa: una storia moderna* (Roma-Bari: Laterza, 2004), 25.
70. Piasere, *I Rom*, 27.

71. Scott, *The Art of Not Being Governed*, 337.
72. Alessandro Simoni, "I giuristi e il 'Problema di una gente vagabonda:' Considerazioni intorno a un libro di inizio Novecento nato da un incontro con i rom meridionali," in Stefania Potrandolfo and Leonardo Piasere (eds), *Italia Romani* (Roma: Centro d'Informazione e Stampa Universitaria, 2002), 265.
73. See Stefania Potrandolfo's work, *Un secolo di scuola: i rom di Melfi* (Roma: CISU Centro d'Informazione e Stampa Universitaria, 2004).
74. Maurizio Fioravanti, "Le dottrine dello Stato e della costituzione," in Raffaele Romanelli (ed.), *Storia dello stato Italiano dall'Unità a oggi* (Roma: Donzelli Editore, 1995), 408–58.

2 Complex Realities: Executive Power and the Police

1. Leo Lucassen, "Between Hobbes and Locke: Gypsies and the Limits of the Modernization Paradigm," *Social History* 33, no. 4 (2008): 432.
2. An example of this simplistic dichotomized differentiation between Italy (bad, centralized) and Germany (stronger, federal) is offered by Daniel Ziblatt, *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism* (Princeton, NJ: Princeton University Press, 2006).
3. Susan A. Ashley, *Making Liberalism Work: The Italian Experience, 1860–1914* (Westport, CT: Praeger, 2003).
4. Ashley, *Making Liberalism Work*, 7.
5. Raffaele Romanelli, "Centralismo e autonomie," in Raffaele Romanelli (ed.), *Storia dello stato Italiano dall'Unità a oggi* (Roma: Donzelli Editore, 1995), 126–86.
6. See Geoff Eley (ed.), *Society, Culture, and the State in Germany 1870–1930* (Ann Arbor, MI: University of Michigan Press, 1997).
7. Christopher Dandeker, *Surveillance, Power, and Modernity: Bureaucracy and Discipline from 1700 to the Present Day* (New York: St. Martin's Press, 1990), 10.
8. Raffaele Romanelli, *Il Commando Impossibile: Stato e società nell'Italia liberale* (Bologna: Mulino, 1988).
9. John Anthony Davis, *Conflict and Control: Law and Order in Nineteenth-century Italy* (Atlantic Highlands, NJ: Humanities Press International, 1988), 165.
10. Romanelli, "Centralismo e autonomie," 138–9.
11. Davis, *Conflict and Control*, 218–19.
12. Davis, *Conflict and Control*, 271.
13. Clive Emsley, *Gendarmes and the State in Nineteenth-century Europe* (Oxford; New York: Oxford University Press, 1999), 206.
14. Carlo Guarnieri, "L'ordine pubblico e la giustizia penale," in Romanelli (ed.), *Storia dello Stato*, 374–76.
15. Lucassen, "Between Hobbes and Locke," 400.
16. Under the constitution of the *Kaiserreich*, the individual states in Germany were known as *Bundesstaaten*, yet in internal correspondence in Prussia and Bavaria, officials referred to the *Landespolizei* and the *Landesgrenzen* (interstate borders).
17. Emsley, *Gendarmes and the State*, 7.

18. Emsley, *Gendarmes and the State*, 211.
19. Emsley, *Gendarmes and the State*, 213–14.
20. Ashley, *Making Liberalism Work*, 31.
21. For a general discussion of the history of legislation concerning work shy and vagabonds, see Flavio Verona, “Oziosi e vagabondi nella legislazione penale dell’ Italia liberale,” in Domenico Corradini (ed.), *Storia delle ideologie e delle istituzioni nell’Italia post-unitaria* (Pisa: ETS, 1984).
22. Verona, “Oziosi e vagabondi,” 53.
23. It is worth noting that residents might very well have become more aware of missing chickens, hay, or other small items when *zingari* were reported in town, and might have been more willing to report such losses to the authorities.
24. *Tribunale di Alessandria v. Magrini Domenico*, 1873, AdSA, Processi Penali 2770/2.
25. *Tribunale di Alessandria v. Antonio Rossi et al.*, 1896, AdSA, Processi Penali 3132/14.
26. *Manifesto del regio governo della divisione di Alessandria, Soprintendenza di polizia*, 1831. ASCAL serie 4a 3191.
27. *Tribunale di Alessandria v. Giuseppe Magrini et al.*, 1860, AdSA Processi Penali 2621/1; it is possible that the “slang” referred to may be, particularly in the case of Piedmont, the Sinti dialect of the Romani language, but there is little direct evidence supporting this. However, in a related case involving some of the same members of the Marini band, some of the members speak of a farmer they called “Gaggio,” which might be a derivative of a word from Romani which both Rom and Sinti use to designate non Rom group outsiders [gage] (*Tribunale di Alessandria v. Giuseppe Magrini et al.*, 1861, AdSA Processi Penali 2622/1).
28. *Tribunale di Torino v. DeGlaudi Giovanni sedicente Lafleur Antonio*, 1908 AdSTP Pacco 833, fasc. 36, Sala W, Scaff. 42, palch. 33.
29. *Tribunale di Alessandria v. Magrini et al.*, 1860, AdSA Processi Penali 2621/1.
30. I thank Carlotta Saletti-Salza for providing me with a list of names of Sinti living in Turin’s *campi nomadi* today – she compiled the list from her own anthropological studies of the Romani population of Turin.
31. *Tribunale civile e penale di Alessandria, Pretura di Felizzano v. Antonio Rossi et al.*, 1896, AdSA Processi Penali 3132/14.
32. Note on last names: Lucchesi was the standard last name given to orphans born in Lucca, and Degli Innocenti (Dei Innocenti, Degl’Innocenti), meaning literally, “of the innocents” was another common last name assigned to orphans at the time. So, when attempting to disguise their identities while traveling, some groups might adopt these names to avoid being identified – criminal sanctions were harsher if one had a previous record.
33. *Tribunale penale di Alessandria, Pretura di Valenza v. Peppino Bozza et al.*, 1909, AdSA Processi Penali 3516/61.
34. *Tribunale civile e penale di Alessandria v. Medardo Grisetti*, 1908, AdSA Processi Penali 3600/11.
35. Rogers Brubaker, *Ethnicity without Groups* (Cambridge, MA: Harvard University Press, 2004).
36. *Tribunale Penale di Alessandria v. Marengo Giacomo et al.*, 1860, AdSA Processi Penali 2623/1.

37. James C. Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven: Yale University Press, 2009), 235.
38. Peter Becker, "‘The Standardized Gaze:’ The Standardization of the Search Warrant in Nineteenth-century Germany," in Jane Caplan and John Torpey (eds), *Documenting Individual Identity* (Princeton, NJ: Princeton University Press, 2001), 157.
39. Telegram from Interior Minister, General Director of *Pubblica Sicurezza*, Rome, to the Prefects of the Kingdom, 15 May 1890, ACdSR, Ministero dell’Interno, Polizia Giudiziaria, 1910–1912/12100.14, busta 304: earlier telegrams attached.
40. Lucassen, "A Many Headed Monster," in Caplan and Torpey (eds), *Documenting Individual Identity*, 254.
41. The *Scuola di Polizia Scientifica* in Rome did begin to assemble a card catalogue of Gypsies at this time, including photographs, but the records are currently not accessible.
42. Samuele Bertoni, delegato di Pubblica Sicurezza a Castrocaro (Firenze), "Gli Zingari", July 1908, ACdSR, Ministero dell’Interno, Polizia Giudiziaria, 1910–1912/12100.14, busta 304.
43. Commando Generale dell’Arma dei Carabinieri Reali, Ufficio Secondo, Roma, to the Ministero dell’Interno Direzione Generale P.S., Roma, 30 November 1909, ACdSR Ministero dell’Interno, Polizia Giudiziaria, 1907–1909, 12100.14, busta 92.
44. Lucassen, *Zigeuner: die Geschichte eines polizeilichen Ordnungsbegriffes in Deutschland, 1700–1945* (Köln: Böhlau, 1996), 8.
45. Lucassen, *Zigeuner*, 139–62.
46. Lucassen, *Zigeuner*, 171.
47. Lucassen, *Zigeuner*, 177.
48. Ministerium des Innern an sämtlichen k. Regierungen Kammer des Innern, January 12, 1871, BHStA, MInn 66433.
49. Ministerium des Innern an Regierungen, Kammer des Innern, Distrikts- und Ortspolizeibehörde, April 11, 1885, BHStA, MInn 66434.
50. Alfred Dillmann, *Zigeuner-Buch* (München: Dr. Wild’sche Buchdruckerei (Gebr. Parcus), 1905): 5.
51. Ministerium des Innern to K.B. Gendarmerie-Korps, Compagnie von Oberbayern, Brigade Rosenheim, Station Aibling, August 21, 1882, StAM RA 57964.
52. Polizeidirektion München to Ministerium des Innern, April 13, 1884, StAM RA 57964.
53. Polizeidirektion München to Ministerium des Innern, January 10, 1910, BHStA MInn 66435.
54. Polizeidirektion München to Ministerium des Innern, January 21, 1902, BHStA MInn 66435.
55. Polizeidirektor München, Dillmann, to Ministerium des Innern, May 13, 1904, BHStA MInn 66436.
56. Sitzung des Finanzausschusses, München, December 6, 1877, located in BHStA MInn 66433.
57. Regierungsentschließung Kammer des Innern, Regierung Oberbayern, March 6, 1891, StAM RA 57964.

58. Karl Schmidt, Fulda, to the Ministerium des Innern (Preußen), July 25, 1881, GStAPK I.HA Rep. 77 Ministerium des Innern Tit. 423, Nr. 53/5, 91–92.
59. Prussian interior ministry Berlin (draft document), “Anweisung zur Bekämpfung des Zigeunerunwesens,” 17 February 1906, GStAPK I.HA Ministerium des Innern Rep 77 tit 423 nr. 53 adh. 2, bd. 4.
60. Kgl. Bezirksamt München I an die K. Regierungen Oberbayern Kammer des Innern, September 7, 1880, StAM RA 57964.
61. Staatsministerium des Innern to the Staatsministerium der Finanzen, June 21, 1901, BHStA MF 67417.
62. Königliche Polizeidirektion München to Ministerium des Innern, September 17, 1903, BHStA MInn 66436.

3 Executive Struggles in Italy 1861–1909

1. Dieter Gosewinkel, *Einbürgern und Ausschliessen: Die Nationalisierung der Staatsangehörigkeit vom Deutschen Bund bis zur Bundesrepublik Deutschland* (Göttingen: Vandenhoeck and Ruprecht, 2001), 177.
2. Gosewinkel, *Einbürgern und Ausschliessen*, 178.
3. Stefano Rodotà, “Le libertà e i diritti,” in Raffaele Romanelli (ed.), *Storia dello stato Italiano dall’Unità a oggi* (Roma: Donzelli Editore, 1995), 312.
4. Transcription of original note from the Italian foreign ministry to the Ministry of the Interior contained in a letter from the Direttore Generale di Pubblica Sicurezza to Ministero dell’Interno, Rome, August 20, 1909, ACdSR, Ministero Interno Direzione Generale “Pubblica Sicurezza” Divisione Polizia Giudiziaria: 1910–1912, 12100.14, busta 304.
5. Direttore di PS Roma to Ministero dell’Interno, August 20, 1909.
6. Direttore Generale di Pubblica Sicurezza to Ministero dell’Interno, August 20, 1909, ACdSR, Ministero Interno Direzione Generale “Pubblica Sicurezza” Divisione Polizia Giudiziaria: 1910–1912, 12100.14, busta 304.
7. Enrico Grosso, *Cittadinanza* (2006 [cited 6/10/2008]); available at: http://dirittiumani.utet.it/dirittiumani/breviario_diritti_umani.jsp?v=cittadinanza&cap=3.
8. See Emilio Gentile, *La Grande Italia* (Madison, WI: University of Wisconsin Press, 2009).
9. In Switzerland, “Gypsies” were categorized differently from Swiss traveling populations, called *Jenische*. For a brief overview of Swiss policies towards this group, see Thomas Meier, “Zigeunerpolitik und Zigeunerdiskurs in der Schweiz 1850–1970,” in Michael Zimmermann (ed.), *Zwischen Erziehung und Vernichtung: Zigeunerpolitik und Zigeunerforschung im Europa des 20. Jahrhunderts* (Stuttgart: Franz Steiner Verlag, 2007), 226–39. In the same volume, see Denis Peschanski, “Zigeuner in Frankreich 1912–1969: eine Periode durchgehender Stigmatisierung” (268–77) and David Mayall, “‘Britain’s Most Demonised People?’: Political Responses to Gypsies and Travellers in Twentieth Century England” (254–67), for a historical overview of British and French state policies.
10. Telegram from Ministero dell’Interno to the Prefetti del Regno, August 22, 1872, Archivio di Stato Torino, Via Piave (AdSTP), Prefettura di Torino Gabinetto: Categoria Massime Affari Vari 1871–1929, 640/1.

11. Ministero dell'Interno to Prefetti, August 22, 1872.
12. Sindaco di Torino to Questore di Torino, July 23, 1873, Archivio Storico della Città di Torino (ASdCT) Polizia Urbana, Medica, Veterinario/Costume Pubbliche, numero 1803/201, fasc. 1.
13. Sindaco di Torino to Questore, July 23, 1873.
14. Prefetto di Torino to Sindaco di Torino, July 30, 1873, ASdCT Polizia Urbana, Medica, Veterinario/Costume Pubbliche, numero 1803/201, fasc. 1.
15. Prefetto di Torino to Sindaco, July 30, 1873.
16. Prefetto di Alessandria to Sindaco di Alessandria, September 30 1873, Archivio Storico della Città di Alessandria (ASCAL) Serie 4°/3191.
17. *Tribunale Penale di Alessandria v. Carrieri/Caviet Giorgio Giuseppe and Denocente/Innocenti Rachele*, 1877, AdSA Tribunale di Alessandria Processi Penali 2846/1.
18. *Tribunale Civile e Correzionale di Acqui v. Lucchesi Piani/Giuseppe*, 1877, AdSA, Tribunale di Alessandria Processi Penali, 2826/1.
19. Extract from the deliberations of the municipal advisory board, Spinea, July 24, 1909, ACdSR, Ministero dell'Interno, Polizia Giudiziaria, 1910–1912/12100.14, busta 304.
20. Letter from the Ministero dell'Interno to the Municipality of Spinea, September 12, 1909, ACdSR, Ministero dell'Interno, Polizia Giudiziaria, 1910–1912/12100.14, busta 304.
21. Ministero dell'Interno to Ministero dell'Affari Esteri, December 1, 1880, ACdSR, Ministero dell'Interno, Polizia Giudiziaria, 1910–1912/12100.14, busta 304.
22. Ministero dell'Interno to Ministero dell'Affari Esteri, August 8, 1891, ACdSR, Ministero dell'Interno, Polizia Giudiziaria, 1910–1912/12100.14, busta 304.
23. Direttore Generale della Pubblica Sicurezza to the Ministero dell'Interno, August 28, 1909, ACdSR, Ministero dell'Interno, Polizia Giudiziaria, 1910–1912/12100.14, busta 304.
24. R. Legazione d'Italia in Berna to the On. Senatore T. Tittoni, Ministero degli Affari Esteri, Roma, September 21, 1908, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 92.
25. Telegram from Ministero dell'Interno Roma to the Prefect of Como, September 18, 1908, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 92.
26. "Lode Meritata," *Il Dovere*, 22. Giugno 1908, in ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 92.
27. However, possibly less so in the European empire of Austria-Hungary: as with the Hungarian coppersmiths alluded to above, the Austrians may have been more willing to defend their "Gypsy" citizens, who had faced a strong assimilationist policy since the time of Maria Theresa.
28. James C. Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven: Yale University Press, 2009).
29. Prefetto di Novara to the Ministero dell'Interno (Direzione Generale di P.S.), Roma, August 29, 1907, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 93.
30. Provincia di Novara, Ufficio di Pubblica Sicurezza, Verbale d'interrogatorio for Giovanni Bosco, August 11, 1907, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 93.

31. Telegram from Novara to Ministero dell'Interno, August 13, 1907, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 93.
32. Prefect of Pisa to the Ministero dell'Interno, Direzione Generale di Pubblica Sicurezza, Roma, August 22, 1909, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 92.
33. Telegram from Prefetto di Cuneo to Ministero dell'Interno, December 21, 1906, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 93.
34. Telegram from Ministero dell'Interno to the Prefect of Cuneo, December 21, 1906, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 93.
35. R. Consolato Generale d'Italia, Nizza to the Ministero dell'Interno, (Dir. Gen. di P.S.), Roma, December 28, 1906, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 93.
36. Andreas Fahrmeir, "Governments and Forgers: Passports in Nineteenth-century Europe," in Jane Caplan and John Torpey (eds), *Documenting Individual Identity* (Princeton, NJ: Princeton University Press, 2001), 230–31.
37. Verbale d'Interrogatorio, Office of Public Security Udine, June 6, 1908, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 92.
38. Ministero dell'Interno to Signor Prefetto dal Regno di Ravenna, June 14, 1909, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 93.
39. I discuss this case in more detail in Chapter 6.
40. *Tribunale Penale di Alessandria, Pretura di Bassignana v. Boriotti, Orlando et al.*, 1901, AdSA, Tribunale di Alessandria Processi Penali, 3255/10.
41. *Tribunale Penale di Alessandria, Pretura di Bassignana v. Boriotti, Orlando et al.*, 1901, AdSA, Tribunale di Alessandria Processi Penali, 3255/10.
42. Comune di Piscina to the Presiding Judge of the Court in Pinerolo, February 9, 1908, AdSTP, Corte d'Appello di Torino, Sentenze Penali, Anno 1908, Pacco 817, fasc. 16, Sala W, scaff 42, palch 31.
43. Certificato di Rito for Laforet Pietro, Comune di Caluso, Provincia di Ivrea, January 29, 1908, AdSTP, Corte d'Appello di Torino, Sentenze Penali, Anno 1908, Pacco 817, fasc. 16, Sala W, scaff 42, palch 31.
44. Prefettura della Provincia di Terra di Lavoro, Ufficio Provinciale di Pubblica Sicurezza to the Ministero dell'Interno, Direzione Generale di P.S. Rome, May 13, 1909, ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1907–1909/12100.14, busta 92.
45. Adrian Lyttleton, "Landlords, Peasants, and the Limits of Liberalism," in John A. Davis (ed.), *Gramsci and Italy's Passive Revolution* (New York: Barnes and Noble, 1979), 115.

4 Executive Struggles in Germany 1870–1909

1. See Dieter Gosewinkel, "Citizenship in Germany and France at the Turn of the 20th Century," in Geoff Eley and Jan Palmowski (eds), *Citizenship and National Identity in 20th Century Germany* (Stanford, CA: Stanford University Press, 2008), 27–39.

2. Dieter Gosewinkel, "Citizenship, Subjecthood, Nationality: Concepts of Belonging in the Age of Modern Nation States," in Klaus Eder and Bernhard Giesen (eds), *European Citizenship between National Legacies and Postnational Projects* (Oxford: Oxford University Press, 2001), 20–1.
3. Gosewinkel, "Citizenship, Subjecthood," 22–3.
4. Gosewinkel, "Citizenship in Germany and France," 34–6.
5. Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992).
6. Gosewinkel, "Citizenship, Subjecthood," 21–2.
7. Dieter Gosewinkel, *Einbürgern und Ausschliessen: Die Nationalisierung der Staatsangehörigkeit vom Deutschen Bund bis zur Bundesrepublik Deutschland* (Göttingen: Vandenhoeck and Ruprecht, 2001), 220.
8. Gosewinkel, *Einbürgern und Ausschliessen*, 222. The *Kulturkampf* is the period in German history, roughly 1871–8, in which Bismarck actively persecuted both the Catholic Center party and the Reich's Catholic citizens.
9. I use the term "foreignization" rather than, for example, denationalization, exactly because of the historiographical and theoretical problems inherent in equating "citizenship" with nationality. The equation of the two happens over time, and in Germany at the end of the 19th century, it is by no means to be assumed. See Geoff Eley and Jan Palmowski, "Citizenship and National Identity in 20th Century Germany," in Eley and Palmowski, *Citizenship*, 3–26.
10. Annemarie Sammartino, "After Brubaker: Citizenship in Modern Germany, 1848 to Today," *German History* 27, no. 4 (2009): 587.
11. Jews and Poles who had lived in Germany for two generations might be considered for naturalization, but very few living in Prussia actually attained that status. It was a bit easier in Baden and Bavaria. See Sammartino, "After Brubaker," 590.
12. Circular issued by Reich Interior Minister to the Reich Regierungspräsidenten, Regierungen, and Polizeipräsidenten, September 29, 1887, GStAPK, I.HA Rep 77 Tit 423 nr. 53, adh. 2, bd. 1, 205–7.
13. This treatment of Gypsies is somewhat comparable to the treatment of some Poles and Jews in unified Germany, whose claims to German nationality were denied and they were expelled. See Gosewinkel, *Einbürgern und Ausschliessen*, 218–33 and Eli Nathans, *Politics of Citizenship in Germany: Ethnicity, Utility and Nationalism* (Oxford; New York: Berg, 2004), 111–68. Notably, neither author devotes any time to the categorization of "Gypsies" and their relationship to citizenship.
14. Letter from Regierungsassessor Potsdam to Ministerium des Innern, Berlin, March 20, 1890, GStAPK, I.HA Rep 77 Tit 423 nr. 53/8, 58–9.
15. Regierungspräsident Potsdam to the Interior Minister Berlin, 8 January 1892, GStAPK, I.HA rep 77 tit. 423 nr. 53/8, s. 107–8.
16. Letter from interior ministry to Regierungen Madgeburg and Potsdam, Interior Ministries, December 8, 1892, GStAPK, I.HA Rep 77 tit. 423, nr. 53, bd. 8.
17. Letter from Regierungspräsident Erfurt to Prussian interior ministry, June 28, 1892, GStAPK I.HA rep. 77 tit. 423, nr. 53, bd. 8.
18. *Anweisung zur Bekämpfung des Zigeunerunwesens* (draft copy), Berlin, 1906, GStAPK, I.HA rep. 77 tit. 423, nr. 53, adh. 2, bd. 4, 206–219.

19. Letter from the president of police, Berlin, to the Prussian Interior Minister, June 21, 1909, GStAPK, I.HA rep 77 tit 423 nr. 53 bd. 10, s. 228–9.
20. Letter to Prussian Interior Minister, June 21, 1909, s. 230–1.
21. Bavarian interior ministry to all of the k. Regierungen Kammer d. Innern, January 12, 1871, BHStA MInn 66433.
22. Prussian Ministerium des Äußern to the Bavarian interior ministry, January 31, 1879, BHStA, MInn 66433.
23. Letter from Kammer des Innern, Landshut (Niederbayern), July 16, 1883, to the Staatsministerium des Innern in München, and response, July 23, 1883, BHStA, MInn 66433. For a similar case involving the Gotha Agreement, see Letter from Bavarian Interior Minister to Foreign Minister, March 19, 1885, BHStA MInn 66434.
24. Annemarie Sammartino argues that the creation of an “imagined national community,” in Benedict Anderson’s terms, did not happen until the period after 1918. However, the case of Gypsies, again proving perhaps to be the illuminating exception that changes our understanding of the norm, seems to suggest that there is a distinct notion of a national community that is free from Gypsies by the turn of the 20th century. See “Culture, Belonging, and the Law: Naturalization in the Weimar Republic,” in Eley and Palmowski, *Citizenship*, 57–72.
25. Geoff Eley, “Introduction,” in *Society, Culture, and the State in Germany 1870–1930* (Ann Arbor, MI: University of Michigan Press, 1997), 4–6.
26. *Aufzeichnung über das Ergebnis der am 21. Mai 1909 im Reichsamt des Innern abgehaltenen kommissarischen Besprechung über die Bekämpfung des Zigeunerunwesens*, GStAPK, I.HA rep 77 tit. 423, nr. 53, adh. 2 bd. 5, s. 319.
27. Letter from Bavarian interior ministry to the Regierung Schwaben und Neuburg, November 21, 1884, BHStA MInn 66434.
28. Bavarian interior ministry to His Excellence the Reichskanzler, March 1892 (draft copy), BHStA MInn 66435.
29. Regierung von Mittelfranken, Kammer des Innern, to the Bavarian interior ministry, October 8, 1906, BHStA MInn 66436.
30. Lucassen also cites the example of hops-harvesting and Gypsies. See Leo Lucassen, *Zigeuner: die Geschichte eines polizeilichen Ordnungsbegriffes im Deutschland, 1700–1945* (Köln: Böhlau, 1996), 179.
31. I translated this word (*Kiesgrube*) literally, I am not sure if it could connote something more colloquial.
32. 111. Sitzung, *Kammer der Abgeordneten*, December 10, 1889, s. 422–4, found in BHStA MInn 66434.
33. James C. Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven: Yale University Press, 2010), 256.
34. Etienne Balibar, “Racism and Nationalism,” in Etienne Balibar and Immanuel Wallerstein (eds), *Race, Nation, Class: Ambiguous Identities* (London; New York: Verso, 1991), 37.
35. Balibar, “Racism and Nationalism,” 49–50.
36. *Denkschrift über die Zigeunerplage und ihre Bekämpfung*, Regierungsassessor Quensel, Herford, July 3, 1893, GStAPK I. HA Rep 77 tit.423 nr. 53 bd 8, s. 276.
37. Andrew Zimmerman, *Anthropology and Antihumanism in Imperial Germany* (Chicago: University of Chicago Press, 2001).

38. Adriano Colocci, *Gli Zingari: Storia di un popolo errante* (Bologna: Forni editore, 1889).
39. Alfred Dillmann, *Zigeuner-Buch* (München: Dr. Wild'sche Buchdruckerei, Gebr. Parcus, 1905), 5. The passage is cited extensively in Chapter 2, p. 34.
40. Dillmann, *Zigeuner-Buch*, 6–8.
41. Telegram from Ministero dell'Interno to the Prefetti del Regno, AdSTP, Prefettura di Torino Gabinetto: Categoria Massime Affari Vari 1871–1929, 640/1.
42. Transcription of original note from the Italian foreign ministry to the Ministry of the Interior contained in a letter from the Direttore Generale di Pubblica Sicurezza to Ministero dell'Interno, Rome, August 20, 1909, ACdSR Ministero Interno Direzione Generale "Pubblica Sicurezza" Divisione Polizia Giudiziaria: 1910–1912, 12100.14, busta 304.
43. Gosewinkel argues that a combination of an increasingly strident and nationalist right wing notion of "Germanness" combined with a Polish and Danish separatist movement within Germany led German citizenship policy in a different direction than that of France, which faced neither of these problems. See Gosewinkel, "Citizenship in Germany and France," 36.
44. *Aufzeichnung über das Ergebnis der am 21. Mai 1909 im Reichsamt des Innern abgehaltenen kommissarischen Besprechung über die Bekämpfung des Zigeunerunwesens*, GStAPK I.HA rep 77 tit. 423, nr. 53, adh. 2 bd. 5 s. 320.
45. Pfister is listed in the *Zigeunerbuch* as Jakob Reinhard alias Pfister "whose home and nationality is unknown. He has a long criminal record..." Dillmann, *Zigeuner-Buch*, 191.
46. Austrian foreign ministry, Vienna, to Bavarian interior ministry, Munich, May 23, 1908, BHStA MA 92791.
47. Bavarian interior ministry to Bavarian foreign ministry, November 12, 1908, BHStA, MA 92791.
48. Letter from the Bavarian Transport Ministry to the Minister of the Interior, Munich, August 6, 1912, BHStA MF 67417.
49. Letter from Mühlendorf to Bavarian interior ministry, July 4, 1905, BHStA MWi 839.
50. General Consulate Munich to Bezirksamt Mühlendorf, July 11, 1905, BHStA MWi 839.
51. *Sonderabdruck aus dem Ministerialblatt der Handels- und Gewerbeverwaltung*, October 31, 1901, GStAPK I.HA rep. 77 tit. 423 bd. 10.
52. Copy of a letter from the royal *Bezirksamt* Mühlendorf to the Bavarian Foreign Minister, GStAPK I. HA Rep 77 tit 423 Nr. 53, bd. 10, s. 124.

5 Creating a State of Exception: 1910–1913

1. Letter from Regierung Schwaben u. Neuburg to Bavarian Interior Ministry, September 13, 1884, BHStA Minn 66434.
2. Report from Polizeidirektion München by Regierungsrat Dillmann, January 21, 1902, BHStA Minn 66435.
3. Dino Pieri, *Lo Zingaro Maledetto: colera e società nella Romagna dell'Ottocento* (Bologna: Guidicini e Rosa Editori, 1985), 187.

4. Report from Polizeidirektion München by Regierungsrat Dillmann, January 21, 1902, BHStA MInn 66435.
5. Martine Kaluszynski, "Republican Identity: Bertillonage as Government Technique," in Jane Caplan and John Torpey (eds), *Documenting Individual Identity. The Development of State Practices in the Modern World* (Princeton, NJ: Princeton University Press, 2001), 136.
6. Kaluszynski, "Republican Identity."
7. Jean-Marc Berlière, "La république et les nomades 1880–1914," *Etudes Tsiganes*, no. 18–19 (2004).
8. Anthony W. Marx, *Making Race and Nation: A Comparison of South Africa, the United States, and Brazil* (New York: Cambridge University Press, 1998), 19.
9. Società di etnografia italiana, *Atti del Primo Congresso di Etnografia Italiana* (Perugia: Unione Tipografica Cooperativa, 1912), 171.
10. Colocci himself is a controversial figure in the history of Gypsy studies in Italy. See Leonardo Piasere, "Sigismondo Caccini e gli Sinte Rozengre," in *Italia Romani: volume primo* (Roma: CISU, 1996), 119–78.
11. Dino Piero, *Lo Zingaro maledetto: colera e società nella Romagna dell'Ottocento* (Bologna: Guidicini e Rosa Editori, 1985).
12. Emilio Gentile, *La Grande Italia: The Myth of the Nation in the 20th Century* (Madison, WI: University of Wisconsin Press, 2009).
13. For example, Andrea Del Boca in *Italiani, brava gente? Un mito duro a morire* (Milano: Neri Pozza, 2005) would argue that the liberal state was exclusionary from the outset, as demonstrated by the struggle against "brigands." Aliza S. Wong, in *Race and the Nation in Liberal Italy* also argues persuasively for a racialist conception of southern Italians from the liberal state's very beginnings (New York: Palgrave Macmillan, 2006).
14. John A. Davis. *Conflict and Control: Law and Order in Nineteenth-century Italy* (New York: Palgrave Macmillan, 1988).
15. "Il rimpatrio degli zingari che girano l'Italia," *La Stampa*, January 7, 1911, 1.
16. Ministero dell'Interno, *Casi e decessi Barletta, Trani, Andria*, Archivio Centrale dello Stato Roma (AcdSR), Direzione Generale della Sanità, busta 271.
17. Frank Snowden, *Naples in the Time of Cholera, 1884–1911* (Cambridge: Cambridge University Press, 1995), 237.
18. Quoted in Snowden, *Naples*, 238.
19. Silvana Patriarca, "Indolence and Regeneration: Tropes and Tensions of Risorgimento Patriotism," *American Historical Review* 110, no. 2 (1995): 380–408.
20. Snowden, *Naples*, 239.
21. Snowden, *Naples*, 238.
22. "Sulla immigrazione degli zingari in Italia," *La Stampa*, September 4, 1910, 1.
23. T. Calissano, Circular no 99118 to the Prefects of the Kingdom, August 21, 1910, Archivio di Stato Torino Via Piave (AdSTP), Prefettura di Torino, Gabinetto, Cat. Massime Affari Vari 1871–1929, busta 640/1.
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27. Snowden, *Naples*, 241.
28. Snowden, *Naples*, 241.
29. Ministero dell'Interno Direzione di PS telegram to Prefect Venezia, November 30, 1910, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
30. Quoted in Paolo Melissi, "Adriano Colocci e la cultura del suo tempo," *Lacio Drom* 31, no. 2 (1995): 32.
31. Melissi, "Adriano Colocci," 32.
32. Snowden, *Naples*, 294–5.
33. L. Luzzatti, Telegram no. 7195 received in Torino, March 8, 1911, AdSTP, Prefettura di Torino, Gabinetto, Cat. Massime Affari Vari 1871–1929, busta 640/1.
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39. Ministero dell'Interno, divisione di Pubblica Sicurezza, Roma, letter to the Prefect of Rome, October 25, 1912, ACdSR, Polizia Giudiziaria 1910–1912 12100.14, busta 309.
40. "Il rimpatrio degli zingari che girano l'Italia," *La Stampa*, January 7, 1911, 1.
41. A. Vivante, *Irredentismo adriatico* (Trieste: Edizioni 'Italo Svevo,' 1984).
42. Giuseppe Levakovich and G. Ausenda, *Tzigari: Vita di un nomade* (Milano: Bompiani, 1974).
43. Ministero dell'Interno, telegram to the Prefect of Vicenza, February 26, 1908, ACdSR, Ministero dell'Interno, Polizia Giudiziaria, 1910–1912, busta 306.
44. Verbale di Interrogatorio for Levakovich, Michele, 1908, ACdSR, Ministero dell'Interno, 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
45. James Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*. (New Haven: Yale University Press, 2010), 235.
46. Prefect of Vicenza, letter to Ministero dell'Interno, Direzione di PS, December 9 and November 12, 1909, ACdSR, Ministero dell'Interno, 12100.14, Polizia Giudiziaria 1910–1912, busta 306.
47. Davis, *Conflict and Control*.
48. Prefect of Udine, letter to the Ministero dell'Interno, Direzione di PS, Rome, July 23, 1909, ACdSR, Ministero dell'Interno, 12100.14, Polizia Giudiziaria 1910–1912, busta 306.
49. Snowden, *Naples*, 239–40.
50. Hudorovich was also a common surname among Roma living in Friuli at the time: in fact, according to Giuseppe Levakovich's autobiography, the two families often intermarried.

51. Prefect of Treviso, letter to the Ministero dell'Interno, Direzione Generale di PS, Rome, August 27 and September 27, 1910, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
52. Ministero dell'Interno, Direzione Generale di PS, telegram to the Prefect of Treviso, October 23, 1910, ACdSR, Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
53. Prefect of Ancona, letter to the Ministero dell'Interno, Direzione Generale PS, Roma, November 16, 1910, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
54. Snowden, *Naples*, 302–3.
55. Snowden, *Naples*.
56. Prefect of Genoa, telegram to Ministero dell'Interno, Direzione Generale Pubblica Sicurezza, November 21, 1911, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
57. Ministero dell'Interno Direzione di PS, telegram to Prefect Venezia, November 30, 1910, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
58. Prefect of Udine to the Ministero dell'Interno, Direzione Generale di PS, August 24, 1911, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
59. Snowden, *Naples*, 337–42.
60. Prefect of Udine, August 24, 1911.
61. Snowden, *Naples*, 341–2.
62. The *Scuola di Polizia Scientifica* was founded in Rome in 1902, according to A. Capobianco, and their stated mission was the “teaching and individual exercise of scientific methods for the recognition, signaling and moral and physical identification of criminals, and for ascertaining crimes.” The Archivio Centrale dello Stato in Rome has the files from the school, however, they are not yet accessible in an organized form. (Alfredo Capobianco, *Il problema di una gente vagabonda in lotta con le leggi* (Napoli: Raimondi, 1914), 96.)
63. Prefect of Como, letter to the Ministero dell'Interno, Direzione Generale PS, Rome, December 12, 1911, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
64. Prefect of Alessandria, telegram to the Ministero dell'Interno, Roma, December 14, 1911, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
65. Ministero dell'Interno, telegram to the Prefect of Alessandria, January 23, 1912, ACdSR, Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
66. Prefect of Udine to the Ministero dell'Interno, direzione generale di PS, Roma, July 23, 1912, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 306.
67. Letter from the Regierungs-Präsident Breslau to the Minister des Innern, Berlin, October 9, 1910, GStAPK I.HA rep 77 tit. 423, nr. 53, adh. 2 Heft 1, s. 20–9.
68. *Denkschrift über die Bekämpfung der Zigeunerplage*, München 1912, located in BHStA MInn 66437, 3.
69. *Denkschrift*, 3.
70. *Denkschrift*, 4.

71. *Denkschrift*, 4.
72. *Niederschrift über die Besprechung im K.B. Staatsministerium des Innern am 18. Und 19. Dezember 1911, betreffend die Bekämpfung der Zigeunerplage*, München 1911, located in BHStA MInn 66437, 9.
73. *Denkschrift*, 7.
74. *Denkschrift*, 7.
75. *Denkschrift*, 42.
76. *Niederschrift*, 23.
77. For an example, see letter from the Regierung Schwaben u. Neuburg, Augsburg, to Bavarian interior ministry, Munich, July 2, 1903, BHStA MInn 66436.
78. Letter from Gendarmerie Corps, Compagnie von Oberbayern, Brigade Freising, Station Moosburg, to Oberbayern Kammer des Innern, Munich, April 8, 1885, StAM RA 57964, part II.
79. Article 15 of the conference program proposed that the costs of "detention, judgement, and expulsion of the Gypsies should first be paid for out of their own possessions." This was already the case in Baden, Bavaria, Prussia and Württemberg. *Denkschrift*, 32.
80. *Niederschrift*, 5.
81. *Niederschrift*, 5.
82. *Niederschrift*, 5.
83. Hermann Aichele, *Die Zigeunerfrage mit besonderer Berücksichtigung Württembergs* (Stuttgart: Stuttgarter Vereins-Buchdruckerei, 1911).
84. Aichele, *Die Zigeunerfrage*, 5–6.
85. Letter from Mühldorf to Bavarian interior ministry, July 4, 1905, BHStA MWi 839.
86. Letter from Prussian interior ministry to the Regierungspräsident Liegnitz, July 16, 1912, GStAPK I.HA Rep. 77 tit. 423 Nr. 53/10, 236. Several individuals and families with the name Schmidt (although no one by the name Theodor) appear in the *Zigeunerbuch* at entries 2361–2377, 234–6.
87. Letter from Polizei-Verwaltung der Oberbürgermeister Düsseldorf to the Bavarian interior ministry, August 5, 1913 and response from Ministry dated August 20, 1913, BHStA MInn 72576.
88. *Denkschrift*, 27–8.
89. *Niederschrift*, 18.
90. *Denkschrift*, 34–5.
91. *Denkschrift*, 37.
92. *Denkschrift*, 29–30.
93. *Niederschrift*, 18–19.
94. *Denkschrift*, 42.
95. *Niederschrift*, 23–4.
96. Letter from the Munich Polizeidirektion to the interior ministry, December 2, 1914, BHStA MInn 72576.

6 The Courts, 1861–1914

1. Alessandro Simoni, "Sicurezza, legalità e lo spettro degli 'zingari,'" *Caffè Europa*, May 23, 2008, <http://www.caffeeuropa.it/index.php?id=2>, 160.

2. Thanks to Taylor and Francis, Ltd for permission to reprint this chapter from an earlier publication: Jennifer Illuzzi, "Negotiating the State of Exception: Gypsies' Encounter with the Judiciary in Germany and Italy, 1860–1914," *Social History* 35 (2010): 418–38.
3. Letter from the Reichskanzler, Berlin, to Bavarian foreign ministry, July 1, 1886, Bayerische Hauptstaatsarchiv (BHStA), Ministerium des Innern (MInn) 66434.
4. *Anweisung zur Bekämpfung des Zigeunerunwesens*, issued by Prussian Interior Minister, Bethmann-Hollweg, February 17, 1906, BHStA, Ministerium des Auessern (MA) 92790.
5. *Zigeunerunwesens*, 3.
6. *Justizministerialblatt*, May 20, 1899, BHStA MInn 66435.
7. This is a fairly common assertion among Prussian and Bavarian authorities. See, for example, 111. Sitzung, *Kammer der Abgeordneten*, December 10, 1889, 422–4, found in BHStA MInn 66434, and *Denkschrift über die Zigeunerplage und ihre Bekämpfung*, Regierungsassessor Quensel, Herford, July 3, 1893, GStAPK I. HA Rep 77 tit.423 nr. 53 bd 8, s. 29–30.
8. *Zigeunerunwesens*, 5–6.
9. Telegram from Ministero dell'Interno to the Prefetti del Regno, Archivio di Stato Torino, Via Piave (AdSTP), Prefettura di Torino Gabinetto: Categoria Massime Affari Vari 1871–1929, 640/1.
10. Alessandro Simoni, "La mendicizia, gli zingari e la cultura giuridica italiana: uno schizzo di tappe e problemi," *Polis. Ricerche e studi su società e politica in Italia*, XIV (2000): 371–89. See Chapter 2 for more on the admonition.
11. *Tribunale civile e penale di Alessandria, 2a pretura di Alessandria v. Cari Appollonia in Ful*, 1908, Archivio di Stato Alessandria (AdSA) Processi Penali 3468/13.
12. Susan Ashley, *Making Liberalism Work: The Italian Experience, 1860–1914* (Westport, CT: Praeger, 2003), 118.
13. Ashley, *Making Liberalism Work*.
14. Ashley, *Making Liberalism Work*, 122.
15. Cesare Lombroso, *Crime, Its Causes and Remedies*, trans. Henry Horton (Montclair, NJ: Patterson Smith, 1968), 39–42.
16. Lombroso, *Crime*, xxxiii.
17. Alfredo Capobianco, *Il problema di una gente vagabonda in lotta con le leggi* (Napoli: Raimondi, 1914).
18. Alessandro Simoni, "I Giuristi e il 'problema di una gente vagabonda,'" in S. Pontrandolfo and L. Piasere (eds), *Italia Romani, Volume Terzo* (Rome: CISU, 2002), 265.
19. Capobianco, *Il problema di una gente vagabonda*, 14.
20. John C. Torpey, *The Invention of the Passport: Surveillance, Citizenship, and the State*, Cambridge Studies in Law and Society (Cambridge: Cambridge University Press, 2000), 3–5.
21. Capobianco, *Il problema di una gente vagabonda*, 13.
22. Capobianco, *Il problema di una gente vagabonda*, 60.
23. *Tribunale Penale di Alessandria, 2a Pretura di Alessandria v. Rosa Margherita*, 1908, AdSA, Processi Penali 3488/48. The actual chicken feathers were still in the case file!

24. *Tribunale Penale di Alessandria, 2a Pretura di Alessandria v. Dodor Giorgio, Flonch Maria, Dodor Zinna e Dodor Joska*, 1895, AdSA, Tribunale di Alessandria, Processi Penali, 3113/1.
25. Capobianco, *Il problema di una gente vagabonda*, 71.
26. Capobianco, *Il problema di una gente vagabonda*, 67.
27. Cini, "Lafleur o Deglaidi?" *La Stampa*, May 8, 1909.
28. My account here is based on the *La Stampa* article as well as the original case files in Turin. See *Tribunale di Torino v. Antonio LaFleur/Giovanni DeGlaudi*, AdSTP, Tribunale di Torino, Pacco 833 fasc. 36 and *Corte d'Appello di Torino v. Antonio LaFleur*, AdSTP, Sentenze Penali, 1908 Novembre, Numero 1080, LaFleur Antonio, Sala z, scaff. 29, palch. 3.
29. Cini, "Lafleur o Deglaidi?" It is also worth noting that LaFleur and DeGlaudi are last names still commonly found among Piedmontese Sinti.
30. The court documents in the Turin archive do not indicate whether or not LaFleur was eventually expelled.
31. Capobianco, *Il problema di una gente vagabonda*, 28–9. Italics added.
32. Letter from the Regierungs-Präsident Breslau to the Minister des Innern, Berlin, October 9, 1910, Geheimes Staatsarchiv Preußischer Kulturbesitz (GStAPK) I.HA rep 77 tit. 423, nr. 53, adh. 2 Heft 1, 20–9.
33. Enclosure in a letter from the Regierung von Unterfranken and Aschaffenberg, September 15, 1903, to the Bavarian interior ministry, BHStA MInn 66436.
34. Letter from the Regierung Oberpfalz und Regensburg to the Bavarian interior ministry, July 21, 1903, BHStA MInn 66436.
35. The group was expelled from Bavaria to Austria in 1891: see Staatsarchiv München (StAM) Regierungsakten (RA) 57964, Heft II. See also BHStA MInn 66435.
36. Letter from the Landrat Arnsberg to the Regierungspräsident Arnsberg, November 7, 1889, GStAPK I.HA Rep 77 tit. 423 nr. 53 bd. 8.
37. Letter from the Reichskanzler (Reichsamt des Innern), Berlin, July 1, 1886, to Bavarian Minister des Auessern, BHStA MInn 66434.
38. Letter from the Bavarian Interior Minister to the Bavarian Foreign Minister, September 16, 1886, BHStA MInn 66434.
39. Letter from the Bavarian justice ministry to the Bavarian interior ministry, May 22, 1905, BHStA MInn 66436.
40. For more on the debates concerning the definition of Gypsies, see Chapter 5.
41. Alfred Dillmann, *Zigeuner-Buch* (München: Dr. Wild'sche Buchdruckerei (Gebr. Parcus) 1905), 9.
42. Letter from Bavarian justice ministry to the Bavarian interior ministry, November 7, 1911, BHStA MInn 66437.
43. *Tribunale Civile e Correzionale di Acqui, Circolo di Assise di Alessandria v. Lucchesi Piani Giuseppe*, 1877, AdSA Tribunale di Alessandria, Processi Penali 2826 and ACdSR, Ministero dell'Interno, Polizia Giudiziaria 1910–1912, 12100.14, busta 308, for examples of the usage of this name.
44. *Tribunale Civile e Correzionale di Alessandria v. Magrini Domenico*, 1872, AdSA Tribunale di Alessandria, Processi Penali 2770/2.
45. On the Gypsies of Jesi, see Leonardo Piasere, "Sigismondo Caccini e gli Sinte rozengre," in L. Piasere (ed.), *Italia Romani*, vol. 1, (Rome: CISU, 1996), 119–78.

46. James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1985).
47. Letter from Avv. Giuseppe Gregoraci to the Interior Minister, Rome, March 31, 1910, Archivio Centrale di Stato Roma (ACdSR) Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 309.
48. Telegram from Ministero dell'Interno to the Prefect of Rome, November 27, 1910, ACdSR Ministero dell'Interno 12100.14, Polizia Giudiziaria, 1910–1912, busta 309.
49. "L'epidemia colerica nelle Puglie importata da zingari russi," *La Stampa*, August 8, 1910, 1.
50. Letter from the Regierung von Mittelfranken to the Bavarian interior ministry, April 15, 1907, BHStA MInn 66436.
51. Letter from the Regierung von Mittelfranken to the Bavarian interior ministry, April 15, 1908, BHStA MInn 66436.
52. Letter from Regierung Oberpfalz und Regensburg, Kammer des Innern to the Bavarian interior ministry, February 17, 1910, BHStA MInn 66437.
53. Capobianco, *Il problema di una gente vagabonda*, 7.
54. Simoni, "I giuristi e il 'Problema di una Gente Vagabonda,'" 282–3.
55. Luigi Lucchini, cited in Simoni, "I giuristi e il 'Problema di una Gente Vagabonda,'" 283.
56. Simoni himself mistakenly suggests in his article that Italy was unlike Germany because it did not pass specific anti-Gypsy legislation ("I giuristi e il 'Problema di una Gente Vagabonda,'" 266). Germans, like the Italians, relied on police and administrative regulations to specifically deal with the Gypsies, and explicitly disavowed legislative solutions until the Weimar era.

7 Conclusion: The Modern Bureaucratic State and Gypsy Exclusion

1. The *Sonderweg* thesis argues that Germany followed a unique path to modernity that predisposed it to the weaknesses that allowed Hitler to rise to power. The authoritarianism of Bismarck, late economic modernization, and the militaristic nationalism of the early 20th century are all elements of this "aberrant" path to modernity. The *Sonderweg* thesis has been largely debunked, beginning with Geoff Eley and David Blackbourn's work, *The Peculiarities of German History: Bourgeois Politics and Society in Nineteenth Century Germany* (Oxford: Oxford University Press, 1984).
2. Foucault et al., *The Foucault Effect: Studies in Governmentality* (London: Harvester Wheatsheaf, 1991).
3. Luigi Lucchini, cited in Alessandro Simoni, "I giuristi e il 'Problema di una Gente Vagabonda:' Considerazioni intorno a un libro di inizio Novecento nato da un incontro con i rom meridionali," in Stefania Potrandolfo and Leonardo Piasere (eds), *Italia Romani* (Roma: CISU, 2002), 283.
4. Judith Butler, "Guantanamo Limbo," *The Nation* 274, no. 12 (2002): 20–4.
5. Hannah Arendt, *Origins of Totalitarianism* (San Diego: A Harvest Book: Harcourt, 1985), 275.
6. Joseph Mazzini, *The Duties of Man and Other Essays*, trans. Ella Noyes (New York: E.P. Dutton and Co., 1907), 53.

7. Arendt, *Origins*, 290.
8. *Denkschrift über die Bekämpfung der Zigeunerplage*, München 1912, located in BHStA Minn 66437, 4.
9. Transcription of original note from the Italian foreign ministry to the Ministry of the Interior contained in a letter from the Direttore Generale di Pubblica Sicurezza to Ministero dell'Interno, Rome, August 20, 1909, ACdSR, Ministero Interno Direzione Generale "Pubblica Sicurezza" Divisione Polizia Giudiziaria: 1910–1912, 12100.14, busta 304.
10. Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005), 3–4.
11. See Jürgen Habermas, "Citizenship and National Identity: Some Reflections on the Future of Europe," *Praxis International* 12, no. 1 (1993): 1–19.

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